Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Tuesday, July 31, 2007 11:03 AM
To: Rosengarten, Clark
Subject: FW: OAG Docket No 121

From: Tim P[redacted]
Sent: Monday, July 30, 2007 3:15 PM
To: GetSMART
Cc: christine_leonard@judiciary-dem.senate.gov
Subject: OAG Docket No 121

In the SORNA section II (C) the O.A.G. sights the Smith Vs Doe, 538 US84 (2003) supreme court case in regards to retroactivity of the SORNA. The AG has not however taken into consideration that the Smith Vs Doe case does state that "Contrary to the Ninth Circuit's assertion, the record contains no evidence that the Act has led to substantial occupational or housing disadvantages for former sex offenders that would not have otherwise occurred ."

This issue could be addressed in the SORNA by prohibiting any jurisdiction from using the sex offender registry or a persons status and Tier level on any sex offender registry as a means to prohibit them from iving or working at any location within the USA. The problem is that by not having this restriction on the SORNA you are opening up the court to look at the SORNA as a tool to used to punish sex offenders punitively and retroactively. As you know many local jurisdictions are using the sex offender registries to prohibit were some sex offenders may live. The inaction of your office on this issue, will open this up to supreme court review. Given that now it can be proven that inclusion on a sex offender registry has led to substantial occupational or housing disadvantages for former sex offenders, and these would not have occurred if the sex offender registries were not in place. (see sex offenders living under bridge Floridia, or many other laws past by local units of goverment.) Because the OAG has failed to consider this issue the whole house of cards may fall. I suggest you add a statement to the SORNA that reads as follows; Sex offender registry's may not be used as a bases in anyway for restricting were sex offenders may or may not live.

Contrary to the Ninth Circuit's assertion, the record contains no evidence that the Act has led to substantial occupational or housing disadvantages for former sex offenders that would not have otherwise occurred.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Monday, July 30, 2007 12:04 PM
To: Rosengarten, Clark
Subject: FW: Commentary on SORNA Guidelines

From: John [redacted]
Sent: Monday, July 30, 2007 11:58 AM
To: GetSMART
Subject: Commentary on SORNA Guidelines

COMMENTARY ON THE PROPOSED GUIDELINES July 2007
Section II through X of the Proposed Guidelines
Retroactivity, Registration, & Tier Levels

Reference: DEPARTMENT OF JUSTICE
[Docket No. OAG 121; A.G. Order No. 2880–2007].
RIN 1105–AB28

Comments may be submitted to GetSMART@usdoj. gov

Introduction: The proposed guidelines represented by SORNA and the Adam Walsh Act, like many of the laws that have been passed on sex offender registration and public notification, are based on myths and stereotypes. These include, but are not limited to, the notion that "all sex offenders are predators", that "all sex offenders will inevitably reoffend", and that "all sex offenders are dangerous." In truth, only a very small percentage of ex-offenders ever commit another offense. Most simply want to get on with their lives. To presume a former offender will sexually re-offend is unfounded by true research. Moreover, it is repugnant and intended to lead to further punishment.

The Constitution clearly prohibits any ex-post-facto law, and makes no provision for the passage of such laws "for public safety." The founders knew that to allow such exceptions would open the door for abuses such as those that have occurred in the area of sex offender laws.

Information regarding previous convictions has always been available for those with a genuine need. A child care center or school, for example, can and should be able to run a background check to determine whether an applicant has a history of abusing children, sexually or otherwise. By the same token, a bank should be able to determine whether a job applicant has a history of committing fraud. The public at large has no need for unfettered access to such information.

At the very least, the public websites should be shut down, and those requiring information on sex offenders' whereabouts should be required to physically go to a local law enforcement office and give their identifying information and reasons for asking.

This is counter to current public sentiment, but public sentiment has been enflamed by sensational media coverage of rare, but terrible crimes, and by false and misleading "information" posing as "statistics."

f we are to have national sex offender laws, the passage of such laws should be preceded by a national debate in which bona fide experts are consulted and their expertise used to fashion reasonable, effective laws. The current laws are based on hysteria and anger.

Executive Summary

Retroactivity

To enforce retroactivity, is not about public safety. The US Attorney General, the SMART office, and Legislators in Congress, are deliberately reaching back in time to punish people who have long since paid their legal dues to society and to the State, as required by law, at the time of a person's conviction.

The stated intent of public safety, does not agree with the intended consequences that occur when people are deliberately destabilized en mass, by the use of umbrella laws. Umbrella laws testify to the fact that enforcement of retroactivity is intended to do harm, on a large scale, without recourse or redress.

Repeal the retroactivity. It is not in the best interest of the States, society, or of law enforcement, to deliberately destabilize people making them jobless and homeless. For, this has been the intended consequences of other umbrella laws.

Places of Employment

The original intent of Megan's Law, and those that followed was to promote child safety by allowing the public to have access to the addresses of those who might pose a danger to children. To include the offender's place of employment on sex offender websites, is not in the interest of public safety, nor that of child safety. The posting of a Registrant's place of employment on public websites, for easy and unfettered access by the public, will result in the mass unemployment of people who have not offended since their first conviction. It will also punish employers whose only crime was to allow someone on the Registry to be a tax paying, productive citizen.

Remove from SORNA the publication of a Registrant's place of employment on publicly accessible websites. It has nothing to do with public safety and everything to do with ex post facto punishment.

Umbrella Laws, Rules, and Regulations

Stop the umbrella mentality and focus on people who are known to be high risk individuals. Get back to the original intent of Meagan's Law, the Jacob Wetterling Act, and other laws named for children. Allow law enforcement to focus on people who are the most dangerous to society.

Registered Sex Offenders

Only a small percentage, 5-6% of those who are forced to register, are repeat or predatory offenders. Sex offender registries are umbrella registries sucking in people who do not belong on public registries, but who may belong on registries that are for law enforcement only. Public sex offender registries are not for law enforcement. They are for harassment, vigilante and revenge actions from people in the public domain. Individuals who access such registration sites often do so to cause harm, physical or otherwise, to the person listed and their family. The incidence of vigilantism is well documented.

Cease and desist the passing of unjust laws. Cease and desist the coercing and threatening States, to

conform to the emotion based portions of SORNA's retroactivity and umbrella sex offender registries. Cease and desist from efforts to weaken the United States Constitution and the Constitutions of individual states.

Public Sex Offender Registries (if they exist at all) Should Contain only Basic Information

There is no sound reason to publish anything other than basic information about a person on a sex offender website. The public has no Constitutional right to be allowed to easily access personal information about another citizen. Those wishing to know who is on a sex offender registry, they must be required to apply for that information with law enforcement. They should not have anonymously access via the Internet.

Follow Colorado's lead. Colorado currently posts only high risk individuals on its public sex offender websites. Low to no-risk individuals register for law enforcement access only registry. This is as it should be. Colorado stopped the umbrella effect and recognized it needed to separate the high risk from the low to no-risk individuals.

Restructure the SORNA registration requirements to a Multi-Tier system that all States must follow and eliminate the retroactivity for all sex offenders. They are not a homogenous population and ought not to be treated as such.

Eliminate the registration of all low to no risk persons. At the very least, the fact that a person may have a history of years of an offense free, productive life must be taken into account. Multiple convictions suggest a propensity to reoffend. Multiple counts, which may stem from a single conviction, or from acts committed over a short period of time, do not. Provide registries and notification for person's who had a predatory offense against a child, bringing back the original intent of Meagan's Law, the Pam Lynchner Act, the Jacob Wetterling Act, and all the other Acts and laws named for children. All of the aforementioned Acts and laws originally attempted to focus on child molesters of the predatory type. The adulteration of all these Acts and laws that has since occurred has severely hampered and reduced the effectiveness of sex offender registration and notification and law enforcement's ability to effectively do their job.

Lastly;

Respect the Constitution.
Remove emotion and the need for revenge from the passage and enforcement of laws.
Use accredited studies and sources as a basis for laws.
Commission studies to actually review the efficacy of current laws.
Realize that over 90% of offenders are first and only time offenders destined to never repeat their crime.
Be Smart on Crime, as the name of your office says you should be.
Restorative not revenge based Justice is the key.

Detailed Commentary

I. The ex post facto clause of the Sex Offender Registration and Notification Act must be redacted it has no case law as authority for its use. Smith v. Doe is not that authority as it is referenced to in the Interim Rules. For, SORNA goes beyond the ruling in Smith v. Doe. The NACDL has agreed with this in their comment of 04/30/07 as follows.

II. Re: NACDL Comments on OAG Docket No. 117; the Attorney General's Interim Rule Applying the

Provisions of the Adam Walsh Act (Pub. L. 109-248) Retrospectively to Offenders Whose Convictions Pre-Date The Enactment of the Legislation

III. The National Association of Criminal Defense Lawyers ("NACDL") is a nationwide, non-profit, voluntary association of criminal defense lawyers founded in 1958 to improve the quality of representation of the accused and to advocate for the preservation of constitutional rights in criminal cases.

IV. The NACDL has a membership of more than 12,800 attorneys and 92 state, local and international affiliate organizations with another 35,000 members including private criminal defense lawyers, public defenders, active U.S. military defense counsel, law professors and judges committed to preserving fairness within America's criminal justice system.

V. In these comments NACDL urges the Attorney General to repeal 28 CFR Part 72 because the regulation, as promulgated, violates the ex post facto clause of the United States Constitution, and will cause widespread confusion and instability in the efforts of many convicted sex offenders to comply with the law and maintain a non-offending lifestyle. http://www.nacdl. org/

VI. "As described in Adam Walsh II at 38-43, the registration and notification requirements of SORNA alone (aside from the criminal provision) are far more punitive than the Alaska law at issue in Smith v. Doe. Most importantly, the issue before the Court in Smith v. Doe was whether the registration requirement was a retroactive punishment prohibited by the Ex Post Facto Clause, not, as here, a criminal statute that in some cases subjects people to federal prosecution based on conduct that was not formerly a crime at all, and in other cases increases the federal penalty for their conduct from one to ten years". See United States v. Bobby Smith, __ F.Supp.2d __, 2007 WL 735001 (E.D. Mich., Mar. 8, 2007). (See http://www.fd. org/odstb_ AdamWalsh. htm).

VII. SORNA will add new tier levels to the punishment of old [past] offenses that have been served prior to enactment of SORNA or the Adam Walsh Act. Retroactive application of the change would likely violate the Ex Post Facto Clause. See William P. Wade, A Treatise on the Operation and Construction of Retroactive Laws, as Affected by Constitutional Limitations and Judicial Interpretations § 273, at 318-19.

VIII. SORNA raises the tier level (risk level) on sex offenders convicted prior to the enactment of the Adam Walsh Act, and the enactment of SORNA. This, in essence, makes the assumption that many sex offenders likely to reoffend, even though they may not have done so for years. SORNA cites no authority for justification of increasing the risk level on past and/or present sex offenders other than an inaccurate belief that sex offenders as a whole have a higher sexual recidivism rate than other offender types. This is not born out by the government's own Department of Justice Statistics, and other well known statistical findings that support the Department of Justice's findings. Increasing the dangerousness level on persons who have served their time prior to the enactment of SORNA without a hearing or due process assumes that sex offenders regardless of the severity of past crimes, are all the same, yet another violation of the "ex post facto "clause of the US Constitution.

IX. "Every law, which makes criminal an act that was not criminal when actually committed, or which inflicts a greater punishment than the law attached to the crime at the time of conviction, is an ex post facto law within the prohibition of the Constitution. There is no Constitutional provision made for purported "public safety" laws. Raising tier levels long after the original conviction, requiring retroactive registration, and dramatically increasing registration times all represent a severe impact on individual liberties, for which there is no justification in fact, and are clearly covered by the Article 1 ex

post facto prohibition of the United States Constitution.

X. Changing the rules of procedure in force at the time an offense was committed and adjudicated in a way substantially disadvantageous to people so labeled as sex offender, is a prohibition of the United States Constitution, Article 1.

XI. The US Supreme Court has affirmed that when the range of available prison terms is legislatively enhanced, the change in sentencing guidelines cannot be applied retroactively. This same reasoning must be applied when the retroactivity guidelines of SORNA legislatively enhances the risk tier on sex offenders adjudicated prior to enactment of SORNA.

XII. The SORNA Guidelines change the conditions that were applicable to an offender's past crime or offense, and therefore may not be applied retroactively. These changes furthermore are not regulatory in intent or application for a burden is enhanced upon people who otherwise had their prior burdens to the state satisfied. They are, therefore, punitive.

XIII. There are constitutional concerns about retroactively in implementing the SORNA Guidelines. The SORNA Guidelines would disadvantage persons who committed their offense prior to the enactment of SORNA by subjecting the offender to higher criminal penalties, and a higher risk of civil loses that otherwise would not or may not have been suffered prior to the enactment of SORNA. The risk of enhanced punishment effects for such offenders is significant.

XIV. SORNA Guidelines as they relate to retroactivity would disadvantage persons who committed their offense post-SORNA by eliminating any lower risk levels available in a previous registration and notification system pre SORNA. This possibility, again, is significant, and must not be considered speculative.

XV. Legislators from the local level to the US Congress have made public statements of indicating that the recognize that these laws are intended to be vengeance and punishment. These are directly contrary to their statements that the laws are intended for "public safety." You can't have it both ways. Either the laws are intended to be punishment, or they aren't. Having stated just once that you are punishing, you cannot then pretend to be "promoting safety.

XVI. These laws are clearly forged out of anger and a desire to punish. These laws far exceed a purpose of civil regulation, and lawmakers make no reasonable or honest effort to devise accurate categories of dangerousness or recidivism risk. The lack of due diligence to ensure that those former offenders posing little or no risk are not included with the high risk multiple offenders makes these laws, rules, and regulations nothing more than instruments of punishment. SORNA is such a set of rules and regulations that far exceed what is necessary to control the one-time, former offender.

XVII. I will refer the US Attorney General to an analysis of Supplement to Adam Walsh Act - Part II (May 2006) from the office of Defender Services.

XVIII. The National Association of Criminal Defense Lawyers with a membership of more than 12,800 attorneys and 92 state, local and international affiliate organizations with another 35,000 members including private criminal defense lawyers, public defenders, active U.S. military defense counsel, law rofessors and judges states that use of Smith v. Doe as the authority for imposing ex post facto is clearly wrong. It does not stand in the face of the judicial reasoning applied in Smith v. Doe, a civil case, not a criminal case.

XIX. Many people over years and decades have successfully reintegrated into the general population after having served their prison, parole, or probation periods. Some are still on one or more registries as required by current law in individual jurisdictions. The proposed guidelines relating to registration requirements, tiers, and notification will uproot people's lives. To put them on public registries and to subject them to federal penalties is absurd and is not for the public safety as SORNA so boldly asserts by referencing Smith v. Doe.

XX. There is no doubt whatsoever that a former offender who is allowed to live his life, reintegrate into the community, and hold a steady job poses far less risk of recidivism than does an ex offender who is constantly scrutinized, harassed, and uprooted.

XXI The rules and regulations of SORNA, and the proposed guidelines are not keeping in good faith with Executive Order 13132, section 2, where it " ...discourages one-size-fits- all approaches to public policy problems." It urges maximum State administrative discretion to carry out federal laws and regulations. It suggests deference to the States when making recommendations that affect State policymaking authority or when there are uncertainties regarding the Federal Government's Constitutional or statutory authority.

XXII. States must not be pressured by the US Attorney General, or his office, to put aside the provisions of their state constitutions regarding retroactivity, and states must not be pressured by the US Attorney General to put aside due process of law. This is done when a person is given no means to contest an unlawfully applied federal regulation, rule, or law that is in conflict with state laws or the Constitution.

XXIII. Paragraph XVI,, part E of the Guidelines concerning implementation states "Beyond the general standard of substantial implementation, SORNA § 125(b) includes special provisions for cases in which the highest Court of a Jurisdiction has held that the Jurisdiction' s Constitution is in some respect in conflict with the SORNA requirements. If a Jurisdiction believes that it faces such a situation, it should inform the SMART Office. The SMART Office will then work with the Jurisdiction to see whether the problem can be overcome, as the statute provides".
This is a clear case of a Federal attempt to control over state's right to abide by its own Constitution.

XXIV. In paragraph XVII, one can readily see where the US Attorney General, in conjunction with the SMART Office, will attempt to pressure States to set aside any conflict a State Constitution may have with the implementation requirements of SORNA. This is achieved by threatening States with financial sanctions and is also in violation of the spirit of Executive Order 13132.

Rogers, Laura

From: [redacted]
Sent: Saturday, June 09, 2007 10:24 PM
To: GetSMART
Subject: Repeal SORNA

SORNA's retroactivity is unconstitutional and wrongly uses Smith v. Doe as the authority for the retroactivity. This commentary describes why SORNA's retroactivity is an ex post facto. SORNA will be challenged.

COMMENTARY ON THE PROPOSED GUIDELINES May 2007
Section II through X of the Proposed Guidelines
Specifically relating to Retroactivity, Registration, & Tier Levels

Reference: DEPARTMENT OF JUSTICE
[Docket No. OAG 121; A.G. Order No. 2880–2007].
RIN 1105–AB28

I. **The ex post facto clause of the Sex Offender Registration and Notification Act must be redacted it has no case law as authority for its use. Smith v. Doe is not that authority as is referenced to in the Interim Rules for SORNA goes beyond the ruling in Smith v. Doe.**

II. **Re: NACDL Comments on OAG Docket No. 117; the Attorney General's Interim Rule Applying the Provisions of the Adam Walsh Act (Pub. L. 109-248) Retrospectively to Offenders Whose Convictions Pre-Date The Enactment of the Legislation**

III. The National Association of Criminal Defense Lawyers ("NACDL") is a nationwide, non-profit, voluntary association of criminal defense lawyers founded in 1958 to improve the quality of representation of the accused and to advocate for the preservation of constitutional rights in criminal cases.

IV. The NACDL has a membership of more than 12,800 attorneys and 92 state, local and international affiliate organizations with another 35,000 members including private criminal defense lawyers, public defenders, active U.S. military defense counsel, law professors and judges committed to preserving fairness within America's criminal justice system.

V. In these comments NACDL urges the Attorney General to **repeal 28 CFR Part 72** because the regulation, as promulgated, violates the ex post facto clause of the United States Constitution, and will cause widespread confusion and instability in the efforts of many convicted sex offenders to comply with the law and maintain a non-offending lifestyle. ***http://www.nacdl.org/***

VI. "As described in Adam Walsh II at 38-43, the registration and notification requirements of SORNA alone (aside from the criminal provision) are far more punitive than the Alaska law at issue in *Smith v. Doe.* Most importantly, the issue before the Court in *Smith v. Doe* was whether the registration requirement was a retroactive punishment prohibited by the *Ex Post Facto* Clause, not, as here, a criminal statute that in some cases subjects people to federal prosecution based on conduct that was not formerly a crime at all, and in other cases increases the federal penalty for their conduct from one to ten years". *See United States v. Bobby Smith*, __ F.Supp.2d __, 2007 WL 735001 (E.D. Mich., Mar. 8, 2007). (See http://www.fd.org/odstb_AdamWalsh.htm).

VII. The SORNA would add new tier levels to the punishment of old [past] offenses that have been served prior to enactment of SORNA [Adam Walsh Act]. Retroactive application of the change would

likely violate the Ex Post Facto Clause. See William P. Wade, A Treatise on the Operation and Construction of Retroactive Laws, as Affected by Constitutional Limitations and Judicial Interpretations § 273, at 318-19.

VIII. SORNA furthermore increases the [dangerousness] tier level on a sex offender, who's crime was prior to the enactment of the SORNA [Adam Walsh Act], and the enactment of SORNA [Sex Offender Registration and Notification Act], and upon those sex offenders who are still required to register. Through the assumption or presumption of a sex offenders likelihood of [repeat] sexual recidivism, SORNA cites no authority for justification of increasing the [dangerousness] level on past and[or] present sex offenders other than an imprecise belief that sex offenders in Toto suffer a higher sexual recidivism rate than other offender types, which is not born out by the governments own Department of Justice Statistics, and other well known statistics [findings] that support the Department of Justice own findings. Increasing the [dangerousness] level on person's who have served their times prior to the enactment of SORNA [Adam Walsh Act] without a hearing or due process assumes in the application of dangerousness level changes, that sex offenders regardless of the severity of past crime[s] are all the same, drawing concerns of ex post facto violation of the US Constitution relating to ex post facto.

IX. "Every law, which makes criminal an act that was innocent when done, or which inflicts a greater punishment than the law annexed to the crime when committed, is an ex post facto law within the prohibition of the Constitution". Increasing dangerousness of a person retroactively is an ex post facto prohibition. By providing for registration retroactivity along with the increase of a person's dangerousness level [tier], and adding or extending the amount of registration time a person would not have otherwise had, in Toto is an Article 1 ex post facto prohibition of the United States Constitution.

X. Also by changing the rules of procedure in force at the time an offense was committed and adjudicated in a way substantially disadvantageous to people so labeled as sex offender is a prohibition of the United States Constitution, Article 1.

XI. Through various cases, the US Supreme Court has affirmed that when the range of available prison terms is legislatively enhanced, the change in sentencing guidelines cannot be applied retroactively. This same reasoning can be applied when the retroactivity guidelines of SORNA [Adam Walsh Act] legislatively enhances the [dangerousness] tier on sex offenders adjudicated prior to enactment of SORNA [Adam Walsh Act].

XII. The SORNA Guidelines changes the conditions that were applicable to an offender's past crime or offense, and therefore may not be applied retroactively. These changes furthermore are not regulatory in intent or application for a burden is enhanced upon people who otherwise had their prior burdens to the state satisfied.

XIII. Given the Supreme Court's Ex Post Facto jurisprudence, there are constitutional concerns about retroactively implementing the SORNA Guidelines. The SORNA Guidelines would disadvantage person's who committed their offense prior to the Adam Walsh Act [SORNA] by subjecting the offender to higher criminal penalties, and a higher risk of civil loses that otherwise would not or may not have been suffered prior to the enactment of SORNA [Adam Walsh Act]. The risk of enhanced detrimental effects for such offenders is sufficient and is not merely speculative.

XIV. Likewise, SORNA Guidelines as they relate to retroactivity would disadvantage person's who committed their offense post-SORNA by eliminating any lower risk levels available in a previous registration and notification system pre SORNA. This possibility, again, is sufficient and should not be described as most speculative. While the issue of what constitutes an Ex Post Facto violation is often a difficult one retroactive application of the SORNA Guidelines as they relate to retroactivity will likely violate the Constitution's prohibition on Ex Post Facto laws.

XV. We the people have the documented statements of legislators from local levels to the US Congress, statements of vengeance and punishment contrary to their falsely applied statements of intent for public safety in Bills they sponsor or support. We the people know the effects of punishment, and are not inclined to believe in US Supreme Court Justices who have no high regard for the United States Constitution and its human rights, liberties, and protections.

XVI. We the people know when laws are made out of a desire to punish, when laws far exceed a purpose of civil regulation, and lawmakers make no reasonable or honest effort to device categories of dangerousness regarding people labeled as sex offender. The lack of due diligence to ensure that the low to no risk are not included with the high risk makes these laws, rules, and regulations nothing more than instruments of punishment. SORNA is such a set of rules and regulations that far exceed what is necessary to control the high risk sex offender.

XVII. I will refer the US Attorney General to an analysis of Supplement to Adam Walsh Act - Part II (May 2006) from the office of Defender Services.

XVIII. The National Association of Criminal Defense Lawyers with a membership of more than 12,800 attorneys and 92 state, local and international affiliate organizations with another 35,000 members including private criminal defense lawyers, public defenders, active U.S. military defense counsel, law professors and judges also say your use of Smith v. Doe as the authority for imposing ex post facto is clearly wrong, and does not stand in the face of the judicial reasoning applied in Smith v. Doe which was a civil case, not a criminal case. SORNA clearly puts emphasis on criminal penalties rather than civil penalties or civil regulations.

XIX. I further find a statement in the Interim Rules concerning persuading states that have ex an post facto provision in their state constitutions to ignore [implied by wording] their state constitutions and case law that have developed for more than 100 years, as is the case in Colorado.

XX. Many people over years and decades have successfully reintegrated into the general population after having served their prison, parole, or probation periods. Some are still on one or more registries as required by current laws in individual jurisdictions. The proposed guidelines relating to registration requirements, tiers, and notification will uproot peoples lives, to put them on public registries and to subject them to federal penalties that they otherwise would not have suffered is absurd and is not for the public safety as SORNA so boldly asserts by referencing Smith v. Doe. Antidotal and factual data clearly imposes a clear understanding that public safety is not served, as is clearly demonstrated respecting residency restrictions upon [ALL] sex offenders.

XXI. The application of ex post facto is arbitrary and capricious for [ex] sex offenders are not allowed or given recourse to set matters straight. Furthermore the government in SORNA presumes an unreasonable presumption of a high likelihood of committing another sex offense as a group or population, a presumption that is clearly false based on reports and data of the highest sources of judicial, legal, and academic integrity. On these facts alone the assertion of retroactivity as valid not only is misapplied but unlawful. To assert justification for ex post facto based on Smith v. Doe authority falls flat on its face as the sole authority.

XXII. Where is public safety served when stable lives are uprooted without due cause, based on a wrongfully perceived notion that all persons labeled as sex offender need be controlled. The uprooting of lives, making private and sensitive information such as where one works open to the public for public abuse, and abuse from fraudsters, identity thieves, and vigilantes, does not serve the public safety but sets conditions for mass trauma, misinformation, disinformation, myths, and outright lies against people who are living stable constructive lives. There are no other crime or offense types that enjoy such ready and easy access to public information.

XXIII. Furthermore the collaboration with John Walsh who for decades have re-victimized his dead son, and who has a vested business interest again demonstrates the arbitrary method of applying ex post facto. There is no factual basis that his son's death was caused by an act of sexual assault or sexual abuse by any known sex offender, let alone a registered sex offender. Information derived and used by the Federal Government in the making of the Adam Walsh Act clearly keeps silent facts that negate, and hold deliberately harmful information[s] from the John Walsh Organization.

XXIV. I further find the rules and regulations of SORNA, and the proposed guidelines are not keeping in good faith with Executive Order 13132, section 2, where it " ...discourages one-size-fits-all approaches to public policy problems. It urges maximum state administrative discretion to carry out federal laws and regulations. It suggests deference to states when making recommendations that affect state policymaking authority or when there are uncertainties regarding the federal government's constitutional or statutory authority".

XXV. States ought not be pressured by the US Attorney General or his office to put aside any or all provisions of its state constitution regarding retroactivity, and states ought not be pressured by the US Attorney General or his office, or the SMART Office to put aside due process of law whereby a person is given no means to contest an unlawfully applied federal regulation, rule, or law that is in conflict with a state and its laws, rules, regulations, and/or constitution.

XXVI. Further considering paragraph XVI to part E of the Guidelines concerning Implementation, part E states "Beyond the general standard of substantial implementation, SORNA § 125(b) includes special provisions for cases in which the highest court of a jurisdiction has held that the jurisdiction's constitution is in some respect in conflict with the SORNA requirements. If a jurisdiction believes that it faces such a situation, it should inform the SMART Office. The SMART Office will then work with the jurisdiction to see whether the problem can be overcome, as the statute provides".

XXVII. In paragraph XVII one can readily see where the US Attorney General in conjunction with the SMART Office will attempt to pressure states to set aside any conflict a state constitution may have with the implementation requirements of SORNA [clearly directed at implementation of retroactivity]. Threatening states with financial sanctions is also in violation of the spirit of Executive Order 13132.

Summary

Retroactivity

To enforce retroactivity is not about public safety for in its effect the US Attorney General, the SMART office, and mostly republican legislators and some democrats in Congress are deliberately reaching back in time to ruin lives of people who have long since paid their legal dues to society and to the state as was required by laws current at the time of a person's conviction.

Enforcing retroactivity is not about child safety as it destabilizes people who have paid their dues to society as was required by current laws at the time of a person's conviction.

Reaching back in time to punish, yes punish, for the stated intent of public safety does not agree with the intended consequences that are now known when people are deliberately destabilized in mass, using umbrella laws. Umbrella laws testify to the fact that enforcement of retroactivity is intended to do harm on a large scale without recourse or redress.

Repeal the retroactivity it is not in the best interest of the states, society, or of law enforcement to deliberately destabilize people, to make them jobless and homeless, for these have been the intended consequences of other umbrella laws. We know what happens with umbrella laws.

Places of Employment

To publicly post on sex offender websites the place where a person works is not in the interest of public safety, nor that of child safety. Posting people's place of employment on a public sex offender websites for easy and unfettered access regardless of the stated intent is intended to generate mass unemployment of people who have not offended since their last conviction. To presume an [ex] offender will sexually reoffend is repugnant and insufficient.

Remove from SORNA the publishing of a person's place of employment from being posted on public sex offender websites; it has nothing to do with the regulation of public safety.

Umbrella Laws, Rules, and Regulations

Stop the umbrella mentality. Focus on people who are known to be high risk individuals. Get back to the original intents of Meagan's Law, the Jacob Wetterling Act, and other child named laws focusing on people who are the most dangerous to society.

Registered Sex Offender

Not everyone who has to register is a felon. Not everyone who has to register ever molested a child or other person. Most sex offender registries are umbrella registries sucking in people who do not belong on public registries but who may belong on registries that are for law enforcement only. Public sex offender registries are not for law enforcement, they are for all types of vigilante and revenge actions from certain types of people in the public domain. Individuals who access such registration sites do so to cause harm, physical or otherwise. Vigilantism is well documented and can be supplied at a moments notice.

Stop and desist the unjust laws, rules, and regulations. Stop and desist from threatening states to conform to the emotionally inspired rules and regulations of SORNA's retroactivity and umbrella sex offender registries. Stop and desist from efforts to weaken the United States Constitution and the Constitutions of individual states.

Sex Offender Registry Suggestion

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Written by:

Bennie O Walton
[redacted]

7/21/2007

Rogers, Laura

From: [redacted]
Sent: Monday, July 09, 2007 5:15 PM
To: GetSMART
Subject: DEPARTMENT OF JUSTICE [Docket No. OAG 121;A.G. Order No. 2880-2007]

Senator Ted Kennedy:

Thank you so much for wanting input from the general populace on this very volitile subject. I am not a sex-offender, nor have I ever been.

I. The ex post facto clause of the Sex Offender Registration and Notification Act must be redacted it has no case law as authority for its use. Smith v. Doe is not that authority as is referenced to in the Interim Rules for SORNA goes beyond the ruling in Smith v. Doe.

II. Re: NACDL Comments on OAG Docket No. 117; the Attorney General's Interim Rule Applying the Provisions of the Adam Walsh Act (Pub. L. 109-248) Retrospectively to Offenders Whose Convictions Pre-Date The Enactment of the Legislation

III. The National Association of Criminal Defense Lawyers ("NACDL") is a nationwide, non-profit, voluntary association of criminal defense lawyers founded in 1958 to improve the quality of representation of the accused and to advocate for the preservation of constitutional rights in criminal cases.

IV. The NACDL has a membership of more than 12,800 attorneys and 92 state, local and international affiliate organizations with another 35,000 members including private criminal defense lawyers, public defenders, active U.S. military defense counsel, law professors and judges committed to preserving fairness within America's criminal justice system.

V. In these comments NACDL urges the Attorney General to repeal 28 CFR Part 72 because the regulation, as promulgated, violates the ex post facto clause of the United States Constitution, and will cause widespread confusion and instability in the efforts of many convicted sex offenders to comply with the law and maintain a non-offending lifestyle. http://www.nacdl. org/

VI. "As described in Adam Walsh II at 38-43, the registration and notification requirements of SORNA alone (aside from the criminal provision) are far more punitive than the Alaska law at issue in Smith v. Doe. Most importantly, the issue before the Court in Smith v. Doe was whether the registration requirement was a retroactive

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VII. The SORNA would add new tier levels to the punishment of old [past] offenses that have been served prior to enactment of SORNA or the Adam Walsh Act. Retroactive application of the change would likely violate the Ex Post Facto Clause. See William P. Wade, A Treatise on the Operation and Construction of Retroactive Laws, as Affected by Constitutional Limitations and Judicial Interpretations § 273, at 318-19.

VIII. SORNA furthermore increases the [dangerousness] tier level on a sex offender, who's crime was prior to the enactment of the Adam Walsh Act, and the enactment of SORNA [Sex Offender Registration and Notification Act], and upon those sex offenders who are still required to register. Through the assumption or presumption of a sex offenders likelihood of [repeat] sexual recidivism, SORNA cites no authority for justification of increasing the [dangerousness] level on past and[or] present sex offenders other than an imprecise belief that sex offenders in Toto suffer a higher sexual recidivism rate than other offender types, which is not born out by the governments own Department of Justice Statistics, and other well known statistics [findings] that support the Department of Justice own findings. Increasing the [dangerousness] level on person's who have served their times prior to the enactment of SORNA [Adam Walsh Act] without a hearing or due process assumes in the application of dangerousness level changes, that sex offenders regardless of the severity of past crime(s) are all the same, drawing concerns of ex post facto violation of the US Constitution relating to ex post facto.

IX. "Every law, which makes criminal an act that was innocent when done, or which inflicts a greater punishment than the law annexed to the crime when committed, is an ex post facto law within the prohibition of the Constitution" . Increasing dangerousness of a person retroactively is an ex post facto prohibition. By providing for registration retroactivity along with the increase of a person's dangerousness level [tier], and adding or extending the amount of registration time a person would not have otherwise had, in Toto is an Article 1 ex post facto prohibition of the United States Constitution.

X. Also by changing the rules of procedure in force at the time an offense was committed and adjudicated in a way substantially disadvantageous to people so labeled as sex offender is a prohibition of the United States Constitution, Article 1.

XI. Through various cases, the US Supreme Court has affirmed that when the range of available prison terms is legislatively enhanced, the change in sentencing guidelines cannot be applied retroactively. This same reasoning can be applied when the retroactivity guidelines of SORNA [Adam Walsh Act] legislatively enhances the [dangerousness] tier on sex offenders adjudicated prior to enactment of SORNA [Adam Walsh Act].

XII. The SORNA Guidelines changes the conditions that were applicable to an offender's past crime or offense, and therefore may not be applied retroactively. These changes furthermore are not regulatory in intent or application for a burden is enhanced upon people who otherwise had their prior burdens to the state satisfied.

XIII. Given the Supreme Court's Ex Post Facto jurisprudence, there are constitutional concerns about retroactively implementing the SORNA Guidelines. The SORNA Guidelines would disadvantage person's who committed their offense prior to the Adam Walsh Act [SORNA] by subjecting the offender to higher criminal penalties, and a higher risk of civil loses that otherwise would not or may not have been suffered prior to the enactment of SORNA [Adam Walsh Act]. The risk of enhanced detrimental effects for such offenders is sufficient and is not merely speculative.

XIV. Likewise, SORNA Guidelines as they relate to retroactivity would disadvantage person's who committed their offense post-SORNA by eliminating any lower risk levels available in a previous registration and notification system pre SORNA. This possibility, again, is sufficient and should not be described as most speculative. While the issue of what constitutes an Ex Post Facto violation is often a difficult one retroactive application of the SORNA Guidelines as they relate to retroactivity will likely violate the Constitution' s prohibition on Ex Post Facto laws.

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XVIII. The National Association of Criminal Defense Lawyers with a membership of more than 12,800 attorneys and 92 state, local and international affiliate organizations with another 35,000 members including private criminal defense lawyers, public defenders, active U.S. military defense counsel, law professors and judges also say your use of Smith v. Doe as the authority for imposing ex post facto is clearly wrong, and does not stand in the face of the judicial reasoning applied in Smith v. Doe which was a civil case, not a criminal case.

XIX. I further find a statement in the Interim Rules concerning persuading states that have ex an post facto provision in their state constitutions to ignore (implied) their state constitutions and case law that have developed for more than 100 years, as is the case in Colorado.

XX. Many people over years and decades have successfully reintegrated into the general population after having served their prison, parole, or probation periods. Some are still on one or more registries as required by current laws in individual jurisdictions. The proposed guidelines relating to registration requirements, tiers, and notification will uproot peoples lives, to put them on public registries and to subject them to federal penalties is absurd and is not for the public safety as SORNA so boldly asserts by referencing Smith v. Doe.

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facto.

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XXV. States ought not be pressured by the US Attorney General or his office to put aside any or all provisions of its state constitution regarding retroactivity, and states ought not be pressured by the US Attorney General or his office, or the SMART Office to put aside due process of law whereby a person is given no means to contest an unlawfully applied federal regulation, rule, or law that is in conflict with a state and its laws, rules, regulations, and/or constitution.

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XXVII. In paragraph XVII one can readily see where the US Attorney General in conjunction with the SMART Office will attempt to pressure states to set aside any conflict a state constitution may have with the implementation requirements of SORNA. Threatening states with financial sanctions is also in violation of the spirit of Executive Order 13132.

Summary

Retroactivity

To enforce retroactivity is not about public safety for in its effect the US Attorney General, the SMART office, and mostly republican legislators and some democrats in Congress are deliberately reaching back in time to ruin the lives of people who have long since paid there legal dues to society and to the state as was required by laws current at the time of a person's conviction.

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Repeal the retroactivity it is not in the best interest of the states, society, or of law enforcement to deliberately destabilize people, to make them jobless and homeless, for these have been the intended consequences of other umbrella laws. We know what happens with umbrella laws.

Places of Employment

To publicly post on sex offender websites the place where a person works is not in the interest of public safety, nor that of child safety. Posting people's place of employment on a public sex offender websites for easy and unfettered access regardless of the stated intent is intended to generate mass unemployment of people who have not offended since their last conviction. To presume an ex offender will sexually reoffend is repugnant and insufficient.

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Thank you once again,

Mrs. Margaret R. Jenkins

[redacted]

[redacted]

7/21/2007

Rogers, Laura

From: [redacted]
Sent: Sunday, June 10, 2007 1:13 AM
To: GetSMART
Subject: Comments on SMART

COMMENTARY ON THE PROPOSED GUIDELINES May 2007

Section II through X of the Proposed Guidelines

Specifically relating to Retroactivity, Registration, & Tier Levels

Reference: DEPARTMENT OF JUSTICE

[Docket No. OAG 121; A.G. Order No. 2880?2007].

RIN 1105?AB28

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maintain a non-offending lifestyle. http://www.nacdl.org/

VI. ?As described in Adam Walsh II at 38-43, the registration and notification requirements of SORNA alone (aside from the criminal provision) are far more punitive than the Alaska law at issue in Smith v. Doe. Most importantly, the issue before the Court in Smith v. Doe was whether the registration requirement was a retroactive punishment prohibited by the Ex Post Facto Clause, not, as here, a criminal statute that in some cases subjects people to federal prosecution based on conduct that was not formerly a crime at all, and in other cases increases the federal penalty for their conduct from one to ten years?. See United States v. Bobby Smith, __ F.Supp.2d __, 2007 WL 735001 (E.D. Mich., Mar. 8, 2007). (See http://www.fd.org/odstb_AdamWalsh.htm).

VII. The SORNA would add new tier levels to the punishment of old [past] offenses that have been served prior to enactment of SORNA [Adam Walsh Act]. Retroactive application of the change would likely violate the Ex Post Facto Clause. See William P. Wade, A Treatise on the Operation and Construction of Retroactive Laws, as Affected by Constitutional Limitations and Judicial Interpretations § 273, at 318-19.

VIII. SORNA furthermore increases the [dangerousness] tier level on a sex offender, who's crime was prior to the enactment of the SORNA [Adam Walsh Act], and the enactment of SORNA [Sex Offender Registration and Notification Act], and upon those sex offenders who are still required to register. Through the assumption or presumption of a sex offenders likelihood of [repeat] sexual recidivism, SORNA cites no authority for justification of increasing the [dangerousness] level on past and[or] present sex offenders other than an imprecise belief that sex offenders in Toto suffer a higher sexual recidivism rate than other offender types, which is not born out by the governments own Department of Justice Statistics, and other well known statistics findings] that support the Department of Justice own findings. Increasing the dangerousness] level on person's who have served their times prior to the enactment of SORNA [Adam Walsh Act] without a hearing or due process assumes in the application of dangerousness level changes, that sex offenders regardless of the severity of past crime[s] are all the same, drawing concerns of ex post facto violation of the US Constitution relating to ex post facto.

IX. ?Every law, which makes criminal an act that was innocent when done, or which inflicts a greater punishment than the law annexed to the crime when committed, is an ex post facto law within the prohibition of the Constitution?. Increasing dangerousness of a person retroactively is an ex post facto prohibition. By providing for registration retroactivity along with the increase of a person?s dangerousness level [tier], and adding or extending the amount of registration time a person would not have otherwise had, in Toto is an Article 1 ex post facto prohibition of the United States Constitution.

X. Also by changing the rules of procedure in force at the time an offense was committed and adjudicated in a way substantially disadvantageous to people so labeled as sex offender is a prohibition of the United States Constitution, Article 1.

XI. Through various cases, the US Supreme Court has affirmed that when the range of available prison terms is legislatively enhanced, the change in sentencing guidelines cannot be applied retroactively. This same reasoning can be applied when the retroactivity guidelines of SORNA [Adam Walsh Act] legislatively enhances the [dangerousness] tier on sex offenders adjudicated prior to enactment of SORNA [Adam Walsh Act].

XII. The SORNA Guidelines changes the conditions that were applicable to an offender?s past crime or offense, and therefore may not be applied troactively. These changes furthermore are not regulatory in intent or application for a :den is enhanced upon people who otherwise had their prior burdens to the state .tisfied.

XIII. Given the Supreme Court?s Ex Post Facto jurisprudence, there are constitutional concerns about retroactively implementing the SORNA Guidelines. The SORNA Guidelines would disadvantage person's who committed their offense prior to the Adam Walsh Act [SORNA] by subjecting the offender to higher criminal penalties, and a higher risk of civil loses that otherwise would not or may not have been suffered prior to the enactment of SORNA [Adam Walsh Act]. The risk of enhanced detrimental effects for such offenders is sufficient and is not merely speculative.

XIV. Likewise, SORNA Guidelines as they relate to retroactivity would disadvantage person's who committed their offense post-SORNA by eliminating any lower risk levels available in a previous registration and notification system pre SORNA. This possibility, again, is sufficient and should not be described as most speculative.
While the issue of what constitutes an Ex Post Facto violation is often a difficult one retroactive application of the SORNA Guidelines as they relate to retroactivity will likely violate the Constitution?s prohibition on Ex Post Facto laws.

XV. We the people have the documented statements of egislators from local levels to the US Congress, statements of vengeance and punishment ntrary to their falsely applied statements of intent for public safety in Bills they onsor or support. We the people know the effects of punishment, and are not inclined to believe in US Supreme Court Justices who have no high regard for the United States Constitution and its human rights, liberties, and protections.

XVI. We the people know when laws are made out of a desire to punish, when laws far exceed a purpose of civil regulation, and lawmakers make no reasonable or honest effort to device categories of dangerousness regarding people labeled as sex offender. The lack of due diligence to ensure that the low to no risk are not included with the high risk makes these laws, rules, and regulations nothing more than instruments of punishment. SORNA is such a set of rules and regulations that far exceed what is necessary to control the high risk sex offender.

XVII. I will refer the US Attorney General to an analysis of Supplement to Adam Walsh Act - Part II (May 2006) from the office of Defender Services.

XVIII. The National Association of Criminal Defense Lawyers with a membership of more than 12,800 attorneys and 92 state, local and international affiliate organizations with another 35,000 members including private criminal defense lawyers, public defenders, active U.S. military defense counsel, law professors and judges also say your use of Smith v. Doe as the authority for imposing ex post facto is early wrong, and does not stand in the face of the judicial reasoning plied in Smith v. Doe which was a civil case, not a criminal case. SORNA clearly puts emphasis on criminal penalties rather than civil penalties or civil regulations.

XIX. I further find a statement in the Interim Rules concerning persuading states that have ex an post facto provision in their state constitutions to ignore [implied by wording] their state institutions and case law that have developed for more than 100 years, is the case in Colorado.

XX. Many people over years and decades have successfully reintegrated into the general population after having served their prison, parole, or probation periods. Some are still on one or more registries as required by current laws in individual jurisdictions. The proposed guidelines relating to registration requirements, tiers, and notification will uproot peoples lives, to put them on public registries and to subject them to federal penalties that they otherwise would not have suffered is absurd and is not for the public safety as SORNA so boldly asserts by referencing Smith v. Doe. Antidotal and factual data clearly imposes a clear understanding that public safety is not served, as is clearly demonstrated respecting residency restrictions upon [ALL] sex offenders.

XXI. The application of ex post facto is arbitrary and capricious for [ex] sex offenders are not allowed or given recourse to set matters straight. Furthermore the government in SORNA presumes an unreasonable presumption of a high likelihood of committing another sex offense as a group or population, a presumption that is clearly false based on reports and data of the highest sources of judicial, legal, and academic integrity. On these facts alone the assertion of retroactivity as valid not only is misapplied but unlawful. To assert justification for ex post facto based on Smith v. Doe authority falls flat on its face the sole authority.

XXII. Where is public safety served when stable lives are uprooted without due cause, based on a wrongfully perceived notion that all persons labeled as sex offender need be controlled. The uprooting of lives, making private and sensitive information such as where one works open to the public for public abuse, and abuse from fraudsters, identity thieves, and vigilantes, does not serve the public safety but sets conditions for mass trauma, misinformation, disinformation, myths, and outright lies against people who are living stable constructive lives. There are no other crime or offense types that enjoy such ready and easy access to public information.

XXIII. Furthermore the collaboration with John Walsh who for decades have re-victimized his dead son, and who has a vested business interest again demonstrates the arbitrary method of applying ex post facto. There is no factual basis that his son?s death was caused by an act of sexual assault or sexual abuse by any known sex offender, let alone a registered sex offender. Information derived and used by the Federal Government in the making of the Adam Walsh Act clearly keeps silent facts that negate, and hold deliberately harmful information[s] from the John Walsh Organization.

XV. I further find the rules and regulations of SORNA, and the proposed guidelines are not keeping in good faith with Executive Order 13132, section 2, where it ? ?discourages one-size-fits-all approaches to public policy problems. It urges maximum state administrative

discretion to carry out federal laws and regulations. It suggests deference to states when making recommendations that affect state policymaking authority or when there are uncertainties regarding the federal government's constitutional or statutory authority?.

..XV. States ought not be pressured by the US Attorney General or his office to put aside any or all provisions of its state constitution regarding retroactivity, and states ought not be pressured by the US Attorney General or his office, or the SMART Office to put aside due process of law whereby a person is given no means to contest an unlawfully applied federal regulation, rule, or law that is in conflict with a state and its laws, rules, regulations, and/or constitution.

XXVI. Further considering paragraph XVI to part E of the Guidelines concerning Implementation, part E states ?Beyond the general standard of substantial implementation, SORNA § 125(b) includes special provisions for cases in which the highest court of a jurisdiction has held that the jurisdiction?s constitution is in some respect in conflict with the SORNA requirements. If a jurisdiction believes that it faces such a situation, it should inform the SMART Office. The SMART Office will then work with the jurisdiction to see whether the problem can be overcome, as the statute provides?.

XXVII. In paragraph XVII one can readily see where the US Attorney General in conjunction with the SMART Office will attempt to pressure states to set aside any conflict a state constitution may have with the implementation requirements of SORNA [clearly directed at implementation of retroactivity]. Threatening states with financial sanctions is also violation of the spirit of Executive Order 13132.

Summary

Retroactivity

To enforce retroactivity is not about public safety for in its effect the US Attorney General, the SMART office, and mostly republican legislators and some democrats in Congress are deliberately reaching back in time to ruin lives of people who have long since paid their legal dues to society and to the state as was required by laws current at the time of a person?s conviction.

Enforcing retroactivity is not about child safety as it destabilizes people who have paid their dues to society as was required by current laws at the time of a person?s conviction.

Reaching back in time to punish, yes punish, for the stated intent of public safety does not agree with the intended consequences that are now known when people are deliberately destabilized in mass, using umbrella laws. Umbrella laws testify to the fact that enforcement of retroactivity is intended to do harm on a large scale without recourse or redress.

Repeal the retroactivity it is not in the best interest of the states, society, or of law enforcement to deliberately destabilize people, to ake them jobless and homeless, for these have been the intended nsequences of other umbrella laws. We know what happens with umbrella aws.

Places of Employment

To publicly post on sex offender websites the place where a person works is not in the interest of public safety, nor that of child safety. Posting people?s place of employment on a public sex offender websites for easy and unfettered access regardless of the stated intent is intended to generate mass unemployment of people who have not offended since their last conviction. To presume an [ex] offender will sexually reoffend is repugnant and insufficient.

Remove from SORNA the publishing of a person?s place of employment from being posted on public sex offender websites; it has nothing to do with the regulation of public safety.

Umbrella Laws, Rules, and Regulations

op the umbrella mentality. Focus on people who are known to be high risk individuals. Get back to the original intents of Meagan?s Law, the Jacob Wetterling Act, and other child named laws focusing on people who are the most dangerous to society.

Registered Sex Offender

Not everyone who has to register is a felon. Not everyone who has to register ever molested a child or other person. Most sex offender registries are umbrella registries sucking in people who do not belong on public registries but who may belong on registries that are for law enforcement only. Public sex offender registries are not for law enforcement, they are for all types of vigilante and revenge actions from certain types of people in the public domain. Individuals who access such registration sites do so to cause harm, physical or otherwise. Vigilantism is well documented and can be supplied at a moments notice.

Stop and desist the unjust laws, rules, and regulations. Stop and desist from threatening states to conform to the emotionally inspired rules and regulations of SORNA?s retroactivity and umbrella sex offender gistries. Stop and desist from efforts to weaken the United States nstitution and the Constitutions of individual states.

Sex Offender Registry Suggestion

There is no sound reason to publish other than basic information about a person on a sex offender website. The public has no constitutional right to be handed on a platter information about another Human Being. If people want to know who is on a sex offender registry they should have to apply for that knowledge as was done before publishing on the Internet. Follow Colorado?s lead. Colorado post only high risk individuals on its public sex offender websites. Low to no-risk individuals register on a for law enforcement registry only internal registry just as it should be done. Colorado stopped the umbrella effect and recognized it needed to separate the high risk from the low to no-risk individuals.

Restructure the SORNA registration requirements to reflect that of Colorado?s two level registration systems.

Eliminate the retroactivity for all sex offenders, they are not a homogenous population and ought not to be treated as such.

Eliminate the registration of all low to no risk person?s. Provide the registries and notification for person?s who had a predatory offense against a child, bringing back the original intent of Meagan?s Law, the Pam Lychner Act, the Jacob Wetterling Act, and all the other child named Acts and laws. All of the aforementioned Acts and laws originally attempted to focus on child molesters of the predatory type. The adulteration of all these Acts and laws that occurred since their enactments have severely hampered and reduced the effectiveness of sex offender registration and notification.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Monday, July 30, 2007 11:48 AM
To: Rosengarten, Clark
Subject: FW: Reference: DEPARTMENT OF JUSTICE [Docket No. OAG 121; A.G. Order No. 2880-2007 RIN 1105-AB28
Attachments: SORNA Proposed Guidelines Comments.doc

From: Rich[redacted]
Sent: Sunday, July 29, 2007 3:15 PM
To: GetSMART
Subject: Reference: DEPARTMENT OF JUSTICE [Docket No. OAG 121; A.G. Order No. 2880-2007 RIN 1105-AB28

Richard H. Schalich
[redacted]

COMMENTARY ON THE PROPOSED GUIDELINES May 2007
Section II through X of the Proposed Guidelines
Specifically relating to Retroactivity, Registration, & Tier Levels

Reference: DEPARTMENT OF JUSTICE
[Docket No. OAG 121; A.G. Order No. 2880–2007].
RIN 1105–AB28

Comments may be submitted to GetSMART@usdoj.gov

Executive Summary

Retroactivity

To enforce retroactivity, is not about public safety. For, in its effect, the US Attorney General, the SMART office, and Legislators in Congress, are deliberately reaching back in time to ruin the lives of people who have long since paid their legal dues to society and to the State, as required by law, at the time of a person's conviction.

Reaching back in time to punish, yes, I said punish, for the stated intent of public safety, does not agree with the intended consequences that occur when people are deliberately destabilized en mass, by the use of umbrella laws. Umbrella laws testify to the fact that enforcement of retroactivity is intended to do harm, on a large scale, without recourse or redress.

Repeal the retroactivity. It is not in the best interest of the States, society, or of law enforcement, to deliberately destabilize people making them jobless and homeless. For, this has been the intended consequences of other umbrella laws.

Places of Employment

To publicly post on sex offender websites, the place where a person works is not in the interest of public safety,

nor that of child safety. The posting of a Registrant's place of employment on public websites, for easy and unfettered access by the public, will result in the mass unemployment of people who have not offended since their first conviction. It will also punish employers whose only crime was to allow someone on the Registry to be a tax paying, productive citizen. To presume a former offender will sexually re-offend is ridiculous, unfounded by true research, repugnant and intended to be further punishment.

Remove from SORNA the publication of a Registrant's place of employment on publicly accessible websites. It has nothing to do with public safety and everything to do with ex post facto punishment.

Umbrella Laws, Rules, and Regulations

Stop the umbrella mentality and focus on people who are known to be high risk individuals. Get back to the original intent of Meagan's Law, the Jacob Wetterling Act, and other laws named for children. Allow law enforcement to focus on people who are the most dangerous to society.

Registered Sex Offenders

Only a small percentage, 5-6% of those who are forced to register, are repeat or predatory offenders. Not everyone who has to register has molested a child or adult. Sex offender registries are umbrella registries sucking in people who do not belong on public registries, but who may belong on registries that are for law enforcement only. Public sex offender registries are not for law enforcement. They are for harassment, vigilante and revenge actions from people in the public domain. Individuals who access such registration sites often do so to cause harm, physical or otherwise, to the person listed and their family. Vigilantism is well documented and can be supplied easily.

Cease and desist the passing of unjust laws. Cease and desist the coercing and threatening States, to conform to the emotion based portions of SORNA's retroactivity and umbrella sex offender registries. Cease and desist from efforts to weaken the United States Constitution and the Constitutions of individual states.

Sex Offender Registry Suggestion

There is no sound reason to publish anything other than basic information about a person on a sex offender website. The public has no Constitutional right to be allowed to easily access personal information about another citizen. If people want to know who is on a sex offender registry, they must be required to apply for that information with law enforcement. Do not publish this on the Internet so that anyone can anonymously access it.

Follow Colorado's lead. Colorado currently posts only high risk individuals on its public sex offender websites. Low to no-risk individuals register for law enforcement access only registry. This is as it should be. Colorado stopped the umbrella effect and recognized it needed to separate the high risk from the low to no-risk individuals.

Restructure the SORNA registration requirements to a Multi-Tier system that all States must follow and eliminate the retroactivity for all sex offenders. They are not a homogenous population and ought not to be treated as such.

Eliminate the registration of all low to no risk person's. Or, at least, take years of an offense free, productive life into account. Provide registries and notification for person's who had a predatory offense against a child, bringing back the original intent of Meagan's Law, the Pam Lynchner Act, the Jacob Wetterling Act, and all the other Acts and laws named for children. All of the aforementioned Acts and laws originally attempted to focus on child molesters of the predatory type. The adulteration of all these Acts and laws that has since occurred has severely hampered and reduced the effectiveness of sex offender registration and notification and law enforcement's ability to effectively do their job.

Lastly;

Respect the Constitution.
Remove emotion and the need for revenge from the passage and enforcement of laws.
Use accredited studies and sources as a basis for laws.
Commission studies to actually review the efficacy of current laws.
Realize that over 90% of offenders are first and only time offenders destined to never repeat their crime.
Be Smart on Crime, as the name of your office says you should be.
Restorative not revenge based Justice is the key.

7/30/2007

Detailed Commentary

I. The ex post facto clause of the Sex Offender Registration and Notification Act must be redacted it has no case law as authority for its use. Smith v. Doe is not that authority as it is referenced to in the Interim Rules. For, SORNA goes beyond the ruling in Smith v. Doe. The NACDL has agreed with this in their comment of 04/30/07 as follows.

II. Re: NACDL Comments on OAG Docket No. 117; the Attorney General's Interim Rule Applying the Provisions of the Adam Walsh Act (Pub. L. 109-248) Retrospectively to Offenders Whose Convictions Pre-Date The Enactment of the Legislation

III. The National Association of Criminal Defense Lawyers ("NACDL") is a nationwide, non-profit, voluntary association of criminal defense lawyers founded in 1958 to improve the quality of representation of the accused and to advocate for the preservation of constitutional rights in criminal cases.

IV. The NACDL has a membership of more than 12,800 attorneys and 92 state, local and international affiliate organizations with another 35,000 members including private criminal defense lawyers, public defenders, active U.S. military defense counsel, law professors and judges committed to preserving fairness within America's criminal justice system.

V. In these comments NACDL urges the Attorney General to **repeal 28 CFR Part 72** because the regulation, as promulgated, violates the ex post facto clause of the United States Constitution, and will cause widespread confusion and instability in the efforts of many convicted sex offenders to comply with the law and maintain a non-offending lifestyle. ***http://www.nacdl.org/***

VI. "As described in Adam Walsh II at 38-43, the registration and notification requirements of SORNA alone (aside from the criminal provision) are far more punitive than the Alaska law at issue in *Smith v. Doe.* Most importantly, the issue before the Court in *Smith v. Doe* was whether the registration requirement was a retroactive punishment prohibited by the *Ex Post Facto* Clause, not, as here, a criminal statute that in some cases subjects people to federal prosecution based on conduct that was not formerly a crime at all, and in other cases increases the federal penalty for their conduct from one to ten years". *See United States v. Bobby Smith*, __ F.Supp.2d __, 2007 WL 735001 (E.D. Mich., Mar. 8, 2007). (See http://www.fd.org/odstb_AdamWalsh.htm).

VII. The SORNA would add new tier levels to the punishment of old [past] offenses that have been served prior to enactment of SORNA or the Adam Walsh Act. Retroactive application of the change would likely violate the Ex Post Facto Clause. See William P. Wade, A Treatise on the Operation and Construction of Retroactive Laws, as Affected by Constitutional Limitations and Judicial Interpretations § 273, at 318-19.

VIII. SORNA furthermore increases the [dangerousness] tier level on a sex offender, who's crime was prior to the enactment of the Adam Walsh Act, and the enactment of SORNA [Sex Offender Registration and Notification Act], and upon those sex offenders who are still required to register. Through the assumption or presumption of a sex offenders likelihood of [repeat] sexual recidivism, SORNA cites no authority for justification of increasing the [dangerousness] level on past and[or] present sex offenders other than an inaccurate belief that sex offenders "in Toto" suffer a higher sexual recidivism rate than other offender types. This is not born out by the governments own Department of Justice Statistics, and other well known statistical findings that support the Department of Justice's findings. Increasing the dangerousness level on person's who have served their time prior to the enactment of SORNA [Adam Walsh Act] without a hearing or due process assumes in the application of dangerousness level changes, that sex offenders regardless of the severity of past crime(s), are all the same, yet another violation of the "ex post facto "clause of the US Constitution.

IX. "Every law, which makes criminal an act that was innocent when done, or which inflicts a greater punishment than the law annexed to the crime when committed, is an ex post facto law within the prohibition of the Constitution". Increasing dangerousness of a person retroactively is an ex post facto

prohibition. By providing for registration retroactivity along with the increase of a person's dangerousness level [tier], and adding or extending the amount of registration time a person would not have otherwise had, in Toto is an Article 1 ex post facto prohibition of the United States Constitution.

X. By changing the rules of procedure in force at the time an offense was committed and adjudicated in a way substantially disadvantageous to people so labeled as sex offender, is a prohibition of the United States Constitution, Article 1.

XI. Through various cases, the US Supreme Court has affirmed that when the range of available prison terms is legislatively enhanced, the change in sentencing guidelines cannot be applied retroactively. This same reasoning must be applied when the retroactivity guidelines of SORNA [Adam Walsh Act] legislatively enhances the dangerousness tier on sex offenders adjudicated prior to enactment of SORNA [Adam Walsh Act].

XII. The SORNA Guidelines change the conditions that were applicable to an offender's past crime or offense, and therefore may not be applied retroactively. These changes furthermore are not regulatory in intent or application for a burden is enhanced upon people who otherwise had their prior burdens to the state satisfied. Therefore, they are putative.

XIII. Given the Supreme Court's Ex Post Facto jurisprudence, there are constitutional concerns about retroactively in implementing the SORNA Guidelines. The SORNA Guidelines would disadvantage person's who committed their offense prior to the Adam Walsh Act [SORNA] by subjecting the offender to higher criminal penalties, and a higher risk of civil loses that otherwise would not or may not have been suffered prior to the enactment of SORNA [Adam Walsh Act]. The risk of enhanced punishment effects for such offenders is sufficient and is not merely speculative.

XIV. Likewise, SORNA Guidelines as they relate to retroactivity would disadvantage person's who committed their offense post-SORNA by eliminating any lower risk levels available in a previous registration and notification system pre SORNA. This possibility, again, is sufficient and must not be described as speculative. While the issue of what constitutes an Ex Post Facto violation is often a difficult one, retroactive application of the SORNA Guidelines will violate the Constitution's prohibition on Ex Post Facto laws.

XV. We, the people, have the documented statements from legislators at the local level to the US Congress. Statements of vengeance and punishment contrary to their falsely applied statements of intent for public safety in Bills they sponsor or support. We, the people, know the effects of punishment, and are not inclined to believe in US Supreme Court Justices which have no regard for the United States Constitution and its human rights and protection of liberty.

XVI. We, the people, know when laws are forged out of a desire to punish. When laws far exceed a purpose of civil regulation, and lawmakers make no reasonable or honest effort to devise categories of dangerousness. The lack of due diligence to ensure that the low to no risk former offenders are not included with the high risk multiple offenders makes these laws, rules, and regulations nothing more than instruments of punishment. SORNA is such a set of rules and regulations that far exceed what is necessary to control the one time, former offender.

XVII. I will refer the US Attorney General to an analysis of Supplement to Adam Walsh Act - Part II (May 2006) from the office of Defender Services.

XVIII. The National Association of Criminal Defense Lawyers with a membership of more than 12,800 attorneys and 92 state, local and international affiliate organizations with another 35,000 members including private criminal defense lawyers, public defenders, active U.S. military defense counsel, law professors and judges state that use of Smith v. Doe as the authority for imposing ex post facto is clearly wrong. It does not stand in the face of the judicial reasoning applied in Smith v. Doe, a civil case, not a criminal case.

XIX. I further find a statement in the Interim Rules concerning coercion of states that have ex an post facto provision in their State Constitution to ignore (implied) the "ex post facto" clause and case law that has developed for many years.

XX. Many people over years and decades have successfully reintegrated into the general population after having served their prison, parole, or probation periods. Some are still on one or more registries as required by current law in individual jurisdictions. The proposed guidelines relating to registration requirements, tiers, and notification will uproot people's lives. To put them on public registries and to subject them to federal penalties is absurd and is not for the public safety as SORNA so boldly asserts by referencing Smith v. Doe.

XXI. The application of ex post facto is arbitrary and capricious. On these two facts alone, the assertion of retroactivity as valid not only is misapplied but unlawful. To assert justification for ex post facto based on Smith v. Doe authority falls flat on its face.

XXII. Where is public safety served when stable lives are uprooted without due cause. An action based on a wrongfully perceived notion that all persons labeled as sex offenders need be controlled. The uprooting of lives and making private and sensitive information, such as where one works, creates a clear case of for government sanctioned abuse. Abuse from fraudsters, identity thieves, and vigilantes, does not serve the public safety but sets conditions for mass trauma, misinformation, disinformation, myths, and outright lies against people who are living stable constructive lives. There are no other persons who committed a crime or offense type that have all of their private and personal information readily available to everyone and anyone. This is a government created discrimination.

XXIII. Furthermore the collaboration with John Walsh, who for decades has re-victimized his dead son, and who has a vested business interest in doing so, again, in my and other's opinion, demonstrates the arbitrary method of applying ex post facto.

XXIV. I further find the rules and regulations of SORNA, and the proposed guidelines are not keeping in good faith with Executive Order 13132, section 2, where it " ...discourages one-size-fits-all approaches to public policy problems." It urges maximum State administrative discretion to carry out federal laws and regulations. It suggests deference to the States when making recommendations that affect State policymaking authority or when there are uncertainties regarding the Federal Government's Constitutional or statutory authority.

XXV. States must not be pressured by the US Attorney General, or his Office, to put aside any or all provisions of its' State Constitution regarding retroactivity, and States must not be pressured by the US Attorney General, his Office or the SMART Office to put aside due process of law whereby a person is given no means to contest an unlawfully applied federal regulation, rule, or law that is in conflict with a State and its laws, rules, regulations, and/or Constitution, let alone true Judicial sense.

XXVI. Further, considering paragraph XVI to part E of the Guidelines concerning implementation, part E states "Beyond the general standard of substantial implementation, SORNA § 125(b) includes special provisions for cases in which the highest Court of a Jurisdiction has held that the Jurisdiction's Constitution is in some respect in conflict with the SORNA requirements. If a Jurisdiction believes that it faces such a situation, it should inform the SMART Office. The SMART Office will then work with the Jurisdiction to see whether the problem can be overcome, as the statute provides".
This is a clear case of Federal control over a State's right to abide by its' own Constitution.

XXVII. In paragraph XVII, one can readily see where the US Attorney General, in conjunction with the SMART Office, will attempt to pressure States to set aside any conflict a State Constitution may have with the implementation requirements of SORNA. This is achieved by threatening States with financial sanctions and is also in violation of the spirit of Executive Order 13132. It is also coercion by the Federal Government of the worst sort.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Thursday, July 26, 2007 3:42 PM
To: Rosengarten, Clark
Subject: FW: Docket No. OAG 121; A.G. Order No. 28802007].

From: [redacted]
Sent: Tuesday, July 24, 2007 10:44 PM
To: GetSMART
Subject: Docket No. OAG 121; A.G. Order No. 28802007].

COMMENTARY ON THE PROPOSED GUIDELINES May 2007
Section II through X of the Proposed Guidelines
Specifically relating to Retroactivity, Registration, & Tier Levels

Reference: DEPARTMENT OF JUSTICE
[Docket No. OAG 121; A.G. Order No. 2880□2007].
RIN 1105□AB28

I. **The ex post facto clause of the Sex Offender Registration and Notification Act must be redacted it has no case law as authority for its use. Smith v. Doe is not that authority as is referenced to in the Interim Rules for SORNA goes beyond the ruling in Smith v. Doe.**

II. **Re: NACDL Comments on OAG Docket No. 117; the Attorney General□s Interim Rule Applying the Provisions of the Adam Walsh Act (Pub. L. 109-248) Retrospectively to Offenders Whose Convictions Pre-Date The Enactment of the Legislation**

III. The National Association of Criminal Defense Lawyers (□NACDL□) is a nationwide, non-profit, voluntary association of criminal defense lawyers founded in 1958 to improve the quality of representation of the accused and to advocate for the preservation of constitutional rights in criminal cases.

IV. The NACDL has a membership of more than 12,800 attorneys and 92 state, local and international affiliate organizations with another 35,000 members including private criminal defense lawyers, public defenders, active U.S. military defense counsel, law professors and judges committed to preserving fairness within America□s criminal justice system.

V. In these comments NACDL urges the Attorney General to **repeal 28 CFR Part 72** because the regulation, as promulgated, violates the ex post facto clause of the United States Constitution, and will cause widespread confusion and instability in the efforts of many convicted sex offenders to comply with the law and maintain a non-offending lifestyle. ***http://www.nacdl.org/***

VI. □As described in Adam Walsh II at 38-43, the registration and notification requirements of SORNA alone (aside from the criminal provision) are far more punitive than the Alaska law at issue in *Smith v. Doe*. Most importantly, the issue before the Court in *Smith v. Doe* was whether the registration requirement was a retroactive punishment prohibited by the *Ex Post Facto* Clause, not, as here, a criminal statute that in some cases subjects people to federal prosecution based on conduct that was not formerly a crime at all, and in other cases increases the federal penalty for their conduct from one to ten years□. *See United States v. Bobby Smith*, __ F.Supp.2d __, 2007 WL 735001 (E.D. Mich., Mar. 8, 2007). (See http://www.fd.org/odstb_AdamWalsh.htm).

VII. The SORNA would add new tier levels to the punishment of old [past] offenses that have been served prior to enactment of SORNA or the Adam Walsh Act. Retroactive application of the change would likely violate the Ex Post Facto Clause. See William P. Wade, A Treatise on the Operation and Construction of Retroactive Laws, as Affected by Constitutional Limitations and Judicial Interpretations ' 273, at 318-19.

VIII. SORNA furthermore increases the [dangerousness] tier level on a sex offender, who's crime was prior to the enactment of the Adam Walsh Act, and the enactment of SORNA [Sex Offender Registration and Notification Act], and upon those sex offenders who are still required to register. Through the assumption or presumption of a sex offenders likelihood of [repeat] sexual recidivism, SORNA cites no authority for justification of increasing the [dangerousness] level on past and[or] present sex offenders other than an imprecise belief that sex offenders in Toto suffer a higher sexual recidivism rate than other offender types, which is not born out by the governments own Department of Justice Statistics, and other well known statistics [findings] that support the Department of Justice own findings. Increasing the [dangerousness] level on person's who have served their times prior to the enactment of SORNA [Adam Walsh Act] without a hearing or due process assumes in the application of dangerousness level changes, that sex offenders regardless of the severity of past crime(s) are all the same, drawing concerns of ex post facto violation of the US Constitution relating to ex post facto.

IX. □Every law, which makes criminal an act that was innocent when done, or which inflicts a greater punishment than the law annexed to the crime when committed, is an ex post facto law within the prohibition of the Constitution□. Increasing dangerousness of a person retroactively is an ex post facto prohibition. By providing for registration retroactivity along with the increase of a person□s dangerousness level [tier], and adding or extending the amount of registration time a person would not have otherwise had, in Toto is an Article 1 ex post facto prohibition of the United States Constitution.

X. Also by changing the rules of procedure in force at the time an offense was committed and adjudicated in a way substantially disadvantageous to people so labeled as sex offender is a prohibition of the United States Constitution, Article 1.

XI. Through various cases, the US Supreme Court has affirmed that when the range of available prison terms is legislatively enhanced, the change in sentencing guidelines cannot be applied retroactively. This same reasoning can be applied when the retroactivity guidelines of SORNA [Adam Walsh Act] legislatively enhances the [dangerousness] tier on sex offenders adjudicated prior to enactment of SORNA [Adam Walsh Act].

XII. The SORNA Guidelines changes the conditions that were applicable to an offender□s past crime or offense, and therefore may not be applied retroactively. These changes furthermore are not regulatory in intent or application for a burden is enhanced upon people who otherwise had their prior burdens to the state satisfied.

XIII. Given the Supreme Court□s Ex Post Facto jurisprudence, there are constitutional concerns about retroactively implementing the SORNA Guidelines. The SORNA Guidelines would disadvantage person's who committed their offense prior to the Adam Walsh Act [SORNA] by subjecting the offender to higher criminal penalties, and a higher risk of civil loses that otherwise would not or may not have been suffered prior to the enactment of SORNA [Adam Walsh Act]. The risk of enhanced detrimental effects for such offenders is sufficient and is not merely speculative.

XIV. Likewise, SORNA Guidelines as they relate to retroactivity would disadvantage person's who committed their offense post-SORNA by eliminating any lower risk levels available in a previous registration and notification system pre SORNA. This possibility, again, is sufficient and should not be described as most speculative. While the issue of what constitutes an Ex Post Facto violation is often a difficult one retroactive application of the SORNA Guidelines as they relate to retroactivity will likely violate the Constitution□s prohibition on Ex Post Facto laws.

XV. We the people have the documented statements of legislators from local levels to the US Congress, statements of vengeance and punishment contrary to their falsely applied statements of intent for public safety in Bills they sponsor or support. We the people know the effects of punishment, and are

not inclined to believe in US Supreme Court Justices who have no high regard for the United States Constitution and its human rights, liberties, and protections.

XVI. We the people know when laws are made out of a desire to punish, when laws far exceed a purpose of civil regulation, and lawmakers make no reasonable or honest effort to device categories of dangerousness egarding people labeled as sex offender. The lack of due diligence to ensure that the low to no risk are not included with the high risk makes these laws, rules, and regulations nothing more than instruments of punishment. SORNA is such a set of rules and regulations that far exceed what is necessary to control the high risk sex offender.

XVII. I will refer the US Attorney General to an analysis of Supplement to Adam Walsh Act - Part II (May 2006) from the office of Defender Services.

XVIII. The National Association of Criminal Defense Lawyers with a membership of more than 12,800 attorneys and 92 state, local and international affiliate organizations with another 35,000 members including private criminal defense lawyers, public defenders, active U.S. military defense counsel, law professors and judges also say your use of Smith v. Doe as the authority for imposing ex post facto is clearly wrong, and does not stand in the face of the judicial reasoning applied in Smith v. Doe which was a civil case, not a criminal case.

XIX. I further find a statement in the Interim Rules concerning persuading states that have ex an post facto provision in their state constitutions to ignore (implied) their state constitutions and case law that have developed for more than 100 years, as is the case in Colorado.

XX. Many people over years and decades have successfully reintegrated into the general population after having served their prison, parole, or probation periods. Some are still on one or more registries as required by current laws in individual jurisdictions. The proposed guidelines relating to registration requirements, tiers, and notification will uproot peoples lives, to put them on public registries and to subject them to federal penalties is absurd and is not for the public safety as SORNA so boldly asserts by referencing Smith v. Doe.

XXI. The application of ex post facto is arbitrary and capricious. On these two facts alone the assertion of retroactivity as valid not only is misapplied but unlawful. To assert justification for ex post facto based on Smith v. Doe authority falls flat on its face as the sole authority.

XXII. Where is public safety served when stable lives are uprooted without due cause, based on a wrongfully perceived notion that all persons labeled as sex offender need be controlled. The uprooting of lives, making private and sensitive information such as where one works open to the public for public abuse, and abuse from fraudsters, identity thieves, and vigilantes, does not serve the public safety but sets conditions for mass trauma, misinformation, disinformation, myths, and outright lies against people who are living stable constructive lives. There are no other crime or offense types that enjoy such ready and easy access to personal information.

XXIII. Furthermore the collaboration with John Walsh who for decades have re-victimized his dead son, and who has a vested business interest again demonstrates the arbitrary method of applying ex post facto.

XXIV. I further find the rules and regulations of SORNA, and the proposed guidelines are not keeping in good faith with Executive Order 13132, section 2, where it □ □discourages one-size-fits-all approaches to public policy problems. It urges maximum state administrative discretion to carry out federal laws and regulations. It suggests deference to states when making recommendations that affect state policymaking authority or when there are uncertainties regarding the federal government's constitutional or statutory authority□.

XXV. States ought not be pressured by the US Attorney General or his office to put aside any or all provisions of its state constitution regarding retroactivity, and states ought not be pressured by the US Attorney General or his office, or the SMART Office to put aside due process of law whereby a person is given no means to contest an unlawfully applied federal regulation, rule, or law that is in conflict with a state and its laws, rules, regulations, and/or constitution.

XXVI. Further considering paragraph XVI to part E of the Guidelines concerning Implementation, part E

states ||Beyond the general standard of substantial implementation, SORNA ' 125(b) includes special provisions for cases in which the highest court of a jurisdiction has held that the jurisdiction|| s constitution is in some respect in conflict with the SORNA requirements. If a jurisdiction believes that it faces such a situation, it should inform the SMART Office. The SMART Office will then work with the jurisdiction to see whether the problem can be overcome, as the statute provides||.

XXVII. In paragraph XVII one can readily see where the US Attorney General in conjunction with the SMART Office will attempt to pressure states to set aside any conflict a state constitution may have with the implementation requirements of SORNA. Threatening states with financial sanctions is also in violation of the spirit of Executive Order 13132.

Summary

Retroactivity

To enforce retroactivity is not about public safety for in its effect the US Attorney General, the SMART office, and mostly republican legislators and some democrats in Congress are deliberately reaching back in time to ruin the lives of people who have long since paid there legal dues to society and to the state as was required by laws current at the time of a person||s conviction.

Enforcing retroactivity is not about child safety as it destabilizes people who have paid their dues to society as was required by current laws at the time of a person||s conviction.

Reaching back in time to punish, yes punish, for the stated intent of public safety does not agree with the intended consequences that are now known when people are deliberately destabilized in mass, using umbrella laws. Umbrella laws testify to the fact that enforcement of retroactivity is intended to do harm on a large scale without recourse or redress.

Repeal the retroactivity it is not in the best interest of the states, society, or of law enforcement to deliberately destabilize people, to make them jobless and homeless, for these have been the intended consequences of other umbrella laws. We know what happens with umbrella laws.

Places of Employment

To publicly post on sex offender websites the place where a person works is not in the interest of public safety, nor that of child safety. Posting people||s place of employment on a public sex offender websites for easy and unfettered access regardless of the stated intent is intended to generate mass unemployment of people who have not offended since their last conviction. To presume an ex offender will sexually reoffend is repugnant and insufficient.

Remove from SORNA the publishing of a person||s place of employment from being posted on public sex offender websites; it has nothing to do with public safety.

Umbrella Laws, Rules, and Regulations

Stop the umbrella mentality. Focus on people who are known to be high risk individuals. Get back to the original intents of Meagan||s Law, the Jacob Wetterling Act, and other child named laws focusing on people who are the most dangerous to society.

Registered Sex Offender

Not everyone who has to register is a felon. Not everyone who has to register ever molested a child or other person. Most sex offender registries are umbrella registries sucking in people who do not belong on public registries but who may belong on registries that are for law enforcement only. Public sex offender registries are not for law enforcement, they are for all types of vigilante and revenge actions from certain types of people in the public domain. Individuals who access such registration sites do so to cause harm, physical or otherwise. Vigilantism is well documented and can be supplied at a moments notice.

Stop and desist the unjust laws, rules, and regulations. Stop and desist from threatening states to conform to the emotionally inspired rules and regulations of SORNA□s retroactivity and umbrella sex offender registries. Stop and desist from efforts to weaken the United States Constitution and the Constitutions of individual states.

Sex Offender Registry Suggestion

There is no sound reason to publish other than basic information about a person on a sex offender website. The public has no constitutional right to be handed on a platter information about another Human Being. If people want to know who is on a sex offender registry they should have to apply for that knowledge as was done before publishing on the Internet. Follow Colorado□s lead. Colorado post only high risk individuals on its public sex offender websites. Low to no-risk individuals register on a for law enforcement registry only internal registry just as it should be done. Colorado stopped the umbrella effect and recognized it needed to separate the high risk from the low to no-risk individuals.

Restructure the SORNA registration requirements to reflect that of Colorado□s two level registration systems.

Eliminate the retroactivity for all sex offenders, they are not a homogenous population and ought not to be treated as such.

Eliminate the registration of all low to no risk person□s. Provide the registries and notification for person□s who had a predatory offense against a child, bringing back the original intent of Meagan□s Law, the Pam Lychner Act, the Jacob Wetterling Act, and all the other child named Acts and laws. All of the aforementioned Acts and laws originally attempted to focus on child molesters of the predatory type. The adulteration of all these Acts and laws that occurred since their enactments have severely hampered and reduced the effectiveness of sex offender registration and notification.

Thank You

Linda Pehrson

Rogers, Laura

From: [redacted]
Sent: Friday, July 13, 2007 1:59 PM
To: GetSMART
Subject: OAG DOCKET NO 121

Retroactivity

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Rogers, Laura

Comp

From: Matt Stanton [redacted]
nt: Monday, July 30, 2007 12:02 PM
: GetSMART
ubject: SORNA

How did you ever come up with the phrase "SMART" in anything that pertains to SORNA? It is obvious our legislators and Attorney General are not "smart" enough to spell Constitution, let alone understand it.
Every portion of this new "feel good" law reeks of violations of our Constitution. Please get this correct and stop this nonsense before we spend billions of dollars on the worthless, grandstanding and supposedly 'tough on crime laws". These ex-offenders have paid their debt to
society; so leave them alone. Is this America or Nazi Germany? The government I once loved makes me sick. Please reply with other than your standard, worthless form letter.

Thanks, Matt

Rogers, Laura

Ghost Const Chall

From: [redacted]
Sent: Wednesday, June 13, 2007 9:15 PM
To: GetSMART
Subject: Re: sorna rules

Dear Ms Rogers,

The Supreme court has never heard a loss of liberty challenge to this law. your law would deny me the right to hear supreme court judges to speak in other states, unless I have an address to send a letter to. Your law gives me less time to fill out state forms than elected officials. Your law denies me the equal Liberty to run for office. The only thing that the supreme court allowed you to do is make us register retroactive, it has never said your means were legal. I feel if you can't convict a homeless person for failure to verify there address, since they have no home, Then how can you convict someone thats on a road trip. If teir 1 can be taken off the list, then so can teir 3, remember this law is solely based on having a record, and not the contents. Email addresses are not public record. I feel this law will be in court for the rest of both of our lives.

[redacted]

----- Original Message -----
From: GetSMART
To: [redacted]
Sent: Wednesday, June 13, 2007 8:35 AM
Subject: RE: sorna rules

Dear [redacted]

Thank you for taking the time to comment on the proposed Guidelines. If you would like to read more about the areas that you express concern about, specifically the fundamental fairness issue, the Supreme Court's decision that SORNA does not violate due process and the retroactivity of SORNA, I would suggest that you read the SORNA retroactivity rule which can be found at 72 FR 8894.

Best regards,

Laura Rogers
Director
SMART Office

From: [redacted]
Sent: Thursday, May 31, 2007 6:50 PM
To: GetSMART
Subject: sorna rules

Dear Ms rogers,

I see a lack of due process for teir 3 people to be taking off the list. I also see a lack of due process when people are forced to carry the goverments mail box when they travel. this I feel can not be made retroactive.

[redacted]

Rogers, Laura Const. Chall.

From: [redacted]
Sent: Monday, June 25, 2007 9:09 AM
To: GetSMART
Subject: OAG Docket 121

This should be something that is left to the states to take care of, this is not a federal issue, this is a state issue. And if you are going to do this for RSOs then why aren't you doing it with the drug dealers and peddlers? Or the drunk drivers, drunk drivers kill more people and children in a year than any RSO.

The Federal government needs to focus on putting the checks and balances back in to the structure, for over the past 7 years they have been erroded to the point that we are heading into Socialist territory.

Rogers, Laura Const. Chall

From: [redacted]
Sent: Monday, June 25, 2007 9:38 AM
To: GetSMART
Subject: OAGDocket No 121

This law infringes on basic rights allowed by the constitution of this United States. For while you think that you are just providing laws for RSOs anyone that they are with, their families will ALL be affected. Not only that, but the offender has done their time, their rehab and have served their debt to society. They are allowed to become productive members of society again. This will only cause discrimination against them, vigilante crimes against them and their families. By allowing all of those things to go on, you are now going against our Bill of Rights which prohibits cruel and unusual punishment. Which to me anything where you are punished AFTER you have done your time and debt to society is cruel and unusual.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Thursday, July 26, 2007 3:45 PM
Rosengarten, Clark
Subject: FW: OAJ Docket No. 121

Attachments: SORNA.doc

SORNA.doc (26 KB)

-----Original Message-----
From: [redacted]
Sent: Wednesday, July 25, 2007 3:09 PM
To: GetSMART
Subject: OAJ Docket No. 121

I am attaching my response to SORNA legislation.

I am writing to you concerning the Sex Offender Registration and Notification Act (SORNA) recently passed by the Senate. This legislation needs to be sent back for corrections that are in my opinion unconstitutional and gives the American people the feeling that all these "harsh punishments" and "regulations" will prevent another sex offense. Preventing and correcting this problem should be our goal. SORNA will not give us that. It is an illusion that we are safer from such crimes.

First, I see this law as clearly "unconstitutional" because it violates the ex post factor clause of our Constitution. You are taking ex-offenders who have been through the justice system, completed their sentence, completed the required therapy and saying "We think some of you will do this again, so therefore here is your additional punishment" It is against all reasoning to further punish and isolate these ex-offenders because you believe some of them will re-offend. All the resources you are willing to spend to carry out these punishments would be better spent on preventing by education for families and therapy for the offender as well as the victim. The right therapy for the victim could help him or her NOT remain a victim for the rest of their life. We know that most child molestation is committed by either family members or friends or neighbors of the victim. The "stranger" is the exception , however, that is what we mostly hear about and that is what these laws are based on.

It concerns me that the law is "construed" to be "regulatory" and not punative. Getting a marriage license or drivers license is regulatory. This law is purely further punishment to ex-offenders who have done their time in prison and completed all therapy required and living their life the best they can with all the "retrictions" on them by the states as to where they can live and work. If this law remains as it is today, then no one is safe. Any law can now be "construed" to be something it is not.

As an American citizen, I am truly concerned for the direction our country is heading. I urge that SORNA be repealed for the sake of the integrity of our Constitution. You are violating the civil rights of one group of Americans and if you are able to accommlish this now, no one will be safe. Any American that goes along with SORNA does so not knowing that tomorrow could be the day when their "group" will be targeted and they too will lose their civil rights.

I urge that SORNA by appealed and that any new legislation be geared to prevention and correcting this problem.

Richard Johnson

July 12, 2007

Laura L. Rogers, Director
SMART Office
Office of Justice Programs
United States Department of Justice
810 7th Street NW.
Washington, DC 20531

RE: OAG Docket NO. 121

To Whom It may Concern:

What has happened to the Constitution of the United States of America? Has it been down graded to a mere piece of paper with worthless writing on it? Have we forgotten the famous words "dedicated to the proposition that all men are created equal"? Perhaps, we have gone back to the days of slaves or the lepers in the Bible where we isolate and discriminate against one group of people. Is that the basis of our great nation? Or maybe its just prejudices and, or, a means to earn votes.

In my recent experiences, I have found that this so called government run by the people is no more than foolish words used to deceive and advance oneself in power and finance. I firmly believe that politicians use, pass, or endorse laws that will only benefit themselves. Yes, we have a voice, but no one is listening. Go to the capital and talk, and if one of our elected has not stepped out of his seat for coffee or a donut, he may hear your argument. But rest assured, when its time to vote, he will be in his chair and he will vote his predetermined way .

A prime example is the sex offenders. As I do not condone sex crimes, I do believe they should be treated the same as murderers, arsonists, burglars, and even the habitual DWI offenders. While it is a hideous act when a child or anyone is sexually violated, it is also a hideous act when the drunk kills a child , or the murderer kills that same child. How about when the arsonists burns down a home with an entire family in it, including children? Is any crime less or more hideous and repulsive? Yet, do the murderers, arsonists, burglars, or DWI offenders register? Do they pay fine, after fine, after fine? Do they register every 4 months and join a list with police department to show where they are in case a similar crime is committed? And, last but not least, do they walk around with drivers licenses stamped MURDERER, ARSONISTS, BURGLAR, OR DWI? The sex offenders do. Where are the equal rights? Do we not have anything to fear from the murderer, arsonists, etc..? Are you stating, only fear the SEX OFFENDER? Do we need less protection from the murderer?

Again, another point I wish to make, I assumed that the purpose of our judicial system after a criminal has served his due, was to rehabilitate that individual. Again, I do believe that

habitual offenders of the same crime should be dealt with severely, however, where is the SECOND CHANCE for a normal life of a sex offender? He has no chance for a normal life. He usually has no financial means to meet the requirements of his release. He has no chance of getting a decent job with SEX OFFENDER stamped in red ink on his drivers license. He has to rely on his family for support and finance to meet your regulations and avoid parole violation. This can sometimes be a great hardship, not only for the sex offender, but, for the family itself who has to struggle to meet these stringent guidelines. But, do the murderer of that child carry the same scrutinizing requirements?

Tell me, please, where is it in our government that " ALL MEN ARE CREATED EQUAL"?

Appalled At the Prejudice,

Annie Benoit

Regina R. DeHart

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Thursday, July 26, 2007 3:47 PM
To: Rosengarten, Clark
Subject: FW: Subject: OAG Docket No. 121
Attachments: The ADAM WALSH ACT offends the Constitution in two areas.doc

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From: [redacted]
Sent: Wednesday, July 25, 2007 6:26 PM
To: GetSMART
Subject: Subject: OAG Docket No. 121

Ms. Smart:

I am attaching my comments for the Adam Walsh Act. I appreciate the opportunity to forward my comments.

Kenneth J. Bond

Laura L. Rogers, Director, SMART Office,

Office of Justice Programs,

United States Department of Justice,

810 7th Street NW., Washington, DC 20531.

Subject: OAG Docket No. 121

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) of the Justice Department's Office of Justice Programs at

Dear Ms. Rogers:

I am greatly concerned about many provisions of the Adam Walsh ACT.

The ADAM WALSH ACT offends the Constitution in two areas.

First: Article I, Section 9, paragraph 3 provides: "No Bill of Attainder or ex post facto Law will be passed." "The Bill of Attainder Clause was intended not as a narrow, technical (and therefore soon to be outmoded) prohibition, but rather as an implementation of the separation of powers, a general safeguard against legislative exercise of the judicial function or more simply - trial by legislature." U.S. v. Brown, 381 U.S. 437, 440 (1965).

"These clauses of the Constitution are not of the broad, general nature of the Due Process Clause, but refer to rather precise legal terms which had a meaning under English law at the time the Constitution was adopted. A bill of attainder was a legislative act that singled out one or more persons and imposed punishment on them, without benefit of trial. Such actions were regarded as odious by the framers of the Constitution because it was the traditional role of a court, judging an individual case, to impose punishment." **William H. Rehnquist**, The Supreme Court, page 166.

The above is a very apt description of the Adam Walsh Act as it singles out one or more persons and imposes punishment on them without due process.

Ask, does the ADAM WALSH ACT as currently enacted qualify as Bill of Attainder or ex post facto? The simple straight forward answer is yes.

How can it be otherwise? It imposes punishment without trial. Those who endeavor justification will say it acts as regulatory and not punishment. That argument is flawed on its face. Any person who followed the hearings can readily show that the intent was not just to record names, it was to punish by debilitating those impacted pushed by political expediency.

Those advocating the AWA stated sex offenders have a high recidivism rate. Valid and reliable research documents that to be a total falsehood.

By passing such an act and ignoring the facts, thousands of citizens have been subjected to the impact of the AWA which is in fact a Bill of Attainder. The intent was to punish even after the offender has paid their debt to society. To quote Madison, relative to ex post factor,

"Bills of attainder, ex post facto laws, and laws impairing the obligations of contracts, are contrary to the first principles of the social compact, and to every principle of sound legislation. ... The sober people of America are weary of the fluctuating policy which has directed the public councils. They have seen with regret and indignation that sudden changes and legislative interferences, in cases affecting personal rights, become jobs in the hands of enterprising and influential speculators, and snares to the more-industrious and less-informed part of the community." **James Madison**, Federalist Number 44, 1788.

In a dissent, Justice Ruth Bader Ginsburg said that "however plain it may be that a former sex offender currently poses no threat of recidivism, he will remain subject to long-term monitoring and inescapable humiliation." Also opposing the court's ruling were Justices John Paul Stevens and Stephen Breyer. How can any description be plainer?

The court also ruled 9-0 that Connecticut did not have to hold separate hearings to determine the risk posed by sex criminals who have completed their prison sentences before putting them in a registry. But Chief Justice William H. Rehnquist, writing that decision, said the case did not give the court the appropriate avenue to decide whether Connecticut's law violates substantive due process rights. As is noted here, the court has not decided the issue.

"The court has made a very powerful and compelling statement about the need for objective, accurate information being as available as possible," Connecticut Attorney General Richard Blumenthal said.

Justice David Souter noted in a separate opinion that the court's decision does not affect future constitutional challenges to Megan's laws.

Stevens said that in both rulings his colleagues "fail to decide whether the statutes deprive the registrants of a constitutionally protected interest in liberty." The cases are *Connecticut Department of Public Safety v. John Doe*, 01-1231, and *Otte v. Doe*, 01-729. Again, the issue has not been decided.

Bill of Attainder

Definition: A legislative act that singles out an individual or group for punishment without a trial. After punishment, these individuals are punished again and again. That is certainly the definition of Bill of Attainder.

The supplementary information provided by the Attorney General broadly states that
applying SORNA to sex offenders whose convictions pre-dated the enactment of the Adam Walsh Act does not offend the ex post facto provision of the Constitution because it creates "registration and notification provisions that are intended to be non-punitive, regulatory measures adopted for public safety reasons." 72 Fed. Reg. Vol. 39, 8896. The Attorney General relies on Smith v. Doe, 538 U.S. 84 (2003) for this proposition. In Smith the Supreme Court upheld the provisions of the Alaska Sex Offender Registration Act (ASORA) against an ex post facto challenge. In fact SORNA is a federal statute that is punitive and therefore the ex post facto provision of Article I Section 9 of the Constitution does apply. SORNA goes well beyond the Alaska Sex Offender Registration Act that was considered by the Court in Smith.

How can it not be a Bill of Attainder when:

a. The Extensive Community Notification Provisions of SORNA Publicly Disgrace and Humiliate the Registered Offender in His or Her Community. One consideration in determining whether a law is punitive is whether it is the type of law that our history and traditions consider to be punishment because it publicly disgraces the offender. Although ASORA and SORNA are similar in some respects, SORNA goes considerably beyond ASORA in its community notification requirements. SORNA requires that NACDL Comments OAG Docket No. 117 an appropriate state official provide an offender's registration information to the Attorney General (for inclusion in the federal list) and to appropriate law enforcement and probation agencies. However, SORNA also requires the state to notify 1) "each school and public

housing authority in the area in which the individual resides, is employed or is a student;" 2) "each jurisdiction where the sex offender resides, is an employee, or is a student and each jurisdiction from or to which a change of residence, employment, or student status occurs;" 3) "any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a);" 4) "social service entities responsible for protecting minors in the child welfare system;" and, 5) "volunteer organizations in which contact with minors or other vulnerable individuals might occur." See, SORNA, § 121. These additional community notification measures render SORNA a punitive statute subject to ex post facto constitutional prohibition. In Smith the Court specifically addressed the shaming aspects of publication of registration information on the Internet. The Court described Internet publication as "analogous to a visit to an official archive of criminal records".

As the provisions that qualify the AWA a Bill of Attainder as well as ex post facto thus should not be instituted, your department should require only those who have not paid their debt to society to be required to register. Many individuals have paid their debt to society, made new lives for themselves including families and new employment. To require them to be posted on the registry is destructive to them and their families. Such a requirement will be like a boil on the buttocks of our nation.

Very truly yours

Kenneth J. Bond

P. S. No, I am not a sex offender, just a private citizen that knows that such provisions as the above violate the principles of liberty and freedom supposedly guaranteed in this land.

Rogers, Laura 6on 2250

From: [redacted]
Sent: Tuesday, June 19, 2007 3:47 PM
To: GetSMART
Subject: OAG Docket No 121

18 USC 2250 states that a sex offender can get up to ten years for knowingly failing to register. This should read a sex offender who fails to knowingly fails to register can get up to the same amount of time they could have been in prison for the original offense if they fail to register. My reasoning is that it will be hard for the courts to uphold a law that makes the failed to register a stricter crime and punishment then the original crime committed by the sex offender.

Rogers, Laura 2250

From: [redacted]
Sent: Friday, July 06, 2007 11:05 AM
To: GetSMART
Cc: christine_leonard@judiciary-dem.senate.gov
Subject: OAG Docket No121

Section 18 USC 2250 States that knowingly failing to register can get the accused up to ten years in prison.

It is hard for me to think that the government is placing more prison time on the offender than they could get for the original crime that got the person placed on the registry. That is saying to the victims, well we understand that the crime done to you is bad so the law says this offender can get say 5 years in prison. But we really think that not registering is more of a serious crime and we will impose up to 10 years if the offender fails to register. The other issue with this line of thinking is that sex offender registries are so important and have cut down on sex crimes so much that they need to make sure sex offenders register and stay registered. When in fact no study to date shows that the any sex offender registry has stopped a sex crime from taking place in the, furthermore no study shows that sex offender registries have aided the police in finding a sex offender sooner than they would have without the registry. The studies do say that over 90% of sexual assaults are committed by a person well known and trusted by the victim, be that victim an adult or child. For that matter over 50% of sexual assaults on children are committed by a family member. Now look at your own official record keeper on statistics on recidivism, US Dept of Justice Bureau of Justice Statistics on Recidivism who reports that within 3 years of release from prison 3.5% of sex offenders will be reconvicted of a sex crime. This is one of the lowest recidivism rates among all criminals.

This section should read that the offense of failing to register may get the offender prison time up to and equal the amount of time they could get in prison for the sex offense the offender did to get them placed on the sex offender registry. Further it should read that prosecution shall only take place after the state has proven that the offender was given positive notification and explanations of their duties to register and all of the continued obligations the sex offender has under the Adam Walsh act.

2250

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Thursday, July 26, 2007 3:34 PM
To: Rosengarten, Clark
Subject: FW: OAG Docket No 121

From: Tim Poxson [redacted]
Sent: Monday, July 23, 2007 5:00 PM
To: GetSMART
Cc: christine_leonard@judiciary-dem.senate.gov
Subject: OAG Docket No 121

The SORNA as written under section 18 USC 2250 states that a person who knowingly failing to register will get up to ten years in prison. So a person can get more time for failing to register than the original crime? I would think this should read a person can get up to the same amount of time for this as the original sex crime they were convicted of. IE if convicted of a 1 year crime than the time they should get is up to 1 year. The other issue I have with this is that the SORNA is very detailed and can be misunderstood by even law enforcement. Each state should have a central phone number to call to ask questions about the sex offender law in that state. This number could be used by law enforcement and sex offenders. This may help take care of some of these issues. If truly you are trying to get all sex offenders to comply states will do everything they can to help the compliance take place. Tim P.

Rogers, Laura

From: [redacted]
Sent: Monday, July 23, 2007 5:39 PM
To: GetSMART

My husband is a registered sex offender. As a family we have ridden waves of uncertainty and despair. We have two children. My husband is not a bad person, he made a mistake. Life is different for us. We have restrictions that are placed on us because of what he did in the past. Yes, I know I chose to be with him and accept those restrictions also. We are on a roller coaster ride never knowing if we will be able to stay at our house. You see a little backwoods chruch that only meets one Sunday a month is going to make us leave the only place my children have ever known. We live next to a network of family. His sister lives next door and parents right up the street. He has lived here his whole life and it just seems unfair to make us move because the church is 400 ft. He never denied his guilt and paid all his fines served his time. So for the rest of our lives we will suffer because he is a registered sex offender. We rack our brains to find a way to be safe and secure in our existence. We just want to raise our kids the best possible way like any good parents and live in peace. Why can't there be classifications for sex offenders? My husband is not a predator and pedophile.
Thanks,[redacted]

Rogers, Laura residency restrictions

From: [redacted]
Sent: Wednesday, July 04, 2007 11:52 AM
To: GetSMART
Subject: Sex Offender registries

Where are ALL of the people convicted of sex offenses going to live? I am married to someone convicted of a sex offense. He was just evicted from his apartment.
Mind you he broke no law he just turned up on the registry. He is complying with the law by registering.
Are we going to create cities and towns for just people convicted of a sex offense? We have a system of justice in this country which has been drastically altered. people serve their sentences and come out of prisons only to be punished for the rest of their lives. They may never break another law but they must still be punished further. They are not the only ones being punished either. These registries do not take into account all of the varying degrees of sex offenses. Not every sex offense involves a child or a minor. But anyone convicted of a sex offense is automatically lumped into a category with child predators. When are we going to take circumstance into consideration? These days public urination qualifies some people as a sex offender. Do these individuals deserve to be punished for the rest of their lives for a lapse in judgment. Of course not. But none the less they are. What about the currently 202 individuals who over the last several years have been exonerated? Can you remove their names from every data base in existence? I think not. People whose convictions are questionable at best are continuing to be punished after they have paid their debt to society. The laws need to be revamped to protect the privacy we all hold dear. These laws should apply only the the absolute worst in our society. Not once have I heard of any government official taking the varying degree of circumstance into consideration. If it were allowed my husband would never have been evicted from his apartment. His offense did not involve a child, yet he is prohibited from seeing his own children unsupervised for the next 4 months. Why? My husband walked out of prison after serving his sentence with a job. He took the initiative to secure his employment while still incarcerated. Throughout the last 10 years in spite of maintaining his innocence he has complied with every request from law enforcement. Why is he still being punished? I will never understand how the basic principals that this country was founded upon could be thrown to the wayside like this.

[redacted]

restrictions.

Rogers, Laura

From: [redacted]
Sent: Tuesday, May 29, 2007 10:16 AM
To: GetSMART
Subject: Comments:SORNA - Sex Offender Ghettos

Comments concening SORNA Sex Offender Registration and Notification Act of the Adam Walsh Act -- and the unconstutional rise of Sex Offender Ghettos.

Registered sex offenders are prosecuted locally for living at their registered address,
There is a rise of **Sex Offender Ghettos** where registered sex offenders are required to live and work by local and state laws. This is unconstituional.

There is a constitutional conflict in compelling sex offenders to register and then prosecuting sex offenders for violating of local regulations concerning the location of where the registered sex offender may live or work.

What can be done to stop local and state governments from "regulating" where registered sex offenders may live by forcing them to live outside of most urban areas and residential communities -- concentrated in dangerous sex offender ghettos?

The regulations by local and state governnents are counter productive to the intent of registering sex offenders. It is forcing many of them to not register in order to live in cities and towns. These local regulations forces them to live in sex offender ghettos on the edges of society placing them and/or their families in dangerous and undesirable situations (see the newspaper article "Living in Fear" 5/20/2007 from the Tulsa World below).

It is unconstitutional to compel disclosure of the address of sex offenderes when it will result in local arrest and criminal prosecution for living or working at the address disclosed. Tulsa will not accept registration of a sex offender when the address is red lined in an area prohibiting sex offenders. More than ninty percent of Tulsa is red lined against registered sex offenders. The must live in the designated tiny concentrated, dangerous, and, most undesireable sex offender ghettos in order for the sex offender registration to be acceptable by the city.

I think that registered sex offenders and any other class of society that are publically identified by name and address should be protected by the government as a protected class. These citizens should be protected from being the victims of hate crimes, harassment, banishment, and ongoing public redicule.

I support the registering of sex offenders for the purposes of law enforcement and for citizens to know who is living and working in their neighborhoods. I do not support prosecution for their living or working at the registered address which may be red lined by local or state law and regulations.

I do not support local and state government harassing, regulating, and criminalizing the registration process concerning the location of where sex offenderes live or work. It is emptyiing the cities by banishing them out of their communities into sex offender ghettos, or is driving sex offenders to live underground in violation of the registration requirements. Let's protect all of our citizens.

Bil Franz
[redacted]

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Living in fear

by: NICOLE MARSHALL Tulsa World Staff Writer
5/20/2007

Sex offender risked arrest to move daughter to a safer place

For nearly two months, Nancy Phipps and her 16-year-old daughter lived in fear at a Sapulpa motel surrounded by dozens of violent sex offenders.

That was the only way Phipps could find to comply with Oklahoma law.

Phipps, a working mother, is a registered sex offender. She received a deferred sentence for flashing and soliciting an undercover officer in 2002, court records show. She was battling a drug problem with Xanax at the time and it was her only sex-related offense, she said.

She said that she was not prostituting herself and she does not remember what happened because of the prescription drugs.

"It was not acceptable what I did, but I am not dangerous, and there was no victim. The rest of my life I should not be labeled. I can't even find a home for my daughter or myself, so we have to stay in a dangerous motel or a shelter," Phipps said.

"It is affecting my daughter's life to the point, what is her future going to be like?"

Phipps used to live near her office job in Tulsa, but then police told her she was breaking the law and risked being arrested. More than 90 percent of Tulsa is off-limits to sex offenders due to a restrictive state law that bans them from living near parks, schools and day-care centers.

She tried several times to find an affordable place to live, but each time she was told that the residence was in an area that was off-limits to her.

Phipps then moved to one of several motels along Interstate 44 west of Tulsa. Paying $200 a week, the mother and daughter were the only females living among many rapists and pedophiles who live at the motels.

"I am a citizen, too, and I lived out there amongst them -- real sex offenders," Phipps said. "We had gotten to the point where they were coming to our room. There was a guy with a forcible sodomy conviction who lived two doors down. He was calling our room. He was knocking on our door. We were just so scared all the time."

When the danger proved too great at the motel, they moved into a Tulsa shelter on Tuesday.

"When we moved out, my daughter said, 'Mamma I feel safe now,' " Phipps said.

She was told that a warrant could be issued for her arrest, but Phipps said she had no other option.

"What other choice do I have? I don't have another choice. I am not going to put my daughter in that situation ever again," Phipps said. "I don't know how many other people are in my situation, but I know a couple of times I felt like going underground, too."

Difficult to comply

Phipps' story has touched many in the legal community who believe that her plight proves why state

law needs to change.

Police records show that about two years ago there were 540 sex offenders in Tulsa. Since the more restrictive spacing law took effect last year, there are just over 370 sex offenders registered in Tulsa. Police say the decrease is because many offenders are not registering due to the residency restrictions.

Since the shelter is in an area that is off-limits to her, Phipps is trying to find another home quickly. She spoke with Tulsa police Friday about her dilemma, and they showed her a map of places where she could and could not live.

"Unfortunately, there are not many places where she can live," Sgt. Gary Stansill said. "Here is a perfect example of someone who wants to comply and is having a difficult time doing so. There are probably hundreds of cases like that."

Special Judge Sarah Day Smith said she first heard Phipps' story when she entered the Drug Court program, over which Smith presides.

"It is one of the saddest stories that I have seen. She is trying to earn an honest living, get treatment and raise her daughter. Instead, she has had to live with her daughter in the midst of other people who have been identified as sexual predators," Smith said.

Phipps said that it has helped to have many supporters who believe in her sincere desire to turn her life around, including her boss, John Stephenson, at Mega Internet Tournaments. Stephenson said that she has worked there since February.

"I interviewed her, and she went to work that afternoon. She has been working here ever since," he said. "She is very dedicated. I don't know how she keeps her spirits up as much as she does."

Phipps was living at an apartment within walking distance of her job, he said. But a few weeks after she was hired, the police told her that she would have to move.

That's when she moved to the motel on Skelly Drive. With limited resources, she was forced to buy a car to get to work.

"It looks to me like the system is trying to force failure," Stephenson said. "If you push a person beyond what financial capabilities they have, that sets them up to fail."

Classifying crimes

Both Smith and Stansill said that they believe that the residency restrictions of the state sex offender law apply to too many people who are not threats to society.

"I don't believe in being soft on crime or sexual predators, but I think this law is too broad," the judge said.

Legislators are considering changes to the law. Rep. Gus Blackwell, R-Goodwell, has proposed passing a three-tiered bill based on the classification of crimes.

If the bill is passed into law, he said that a person who urinated in public would not have the same supervision as someone who had been convicted of a sex crime against someone younger than 12.

The state Legislature's regular session ends Friday.

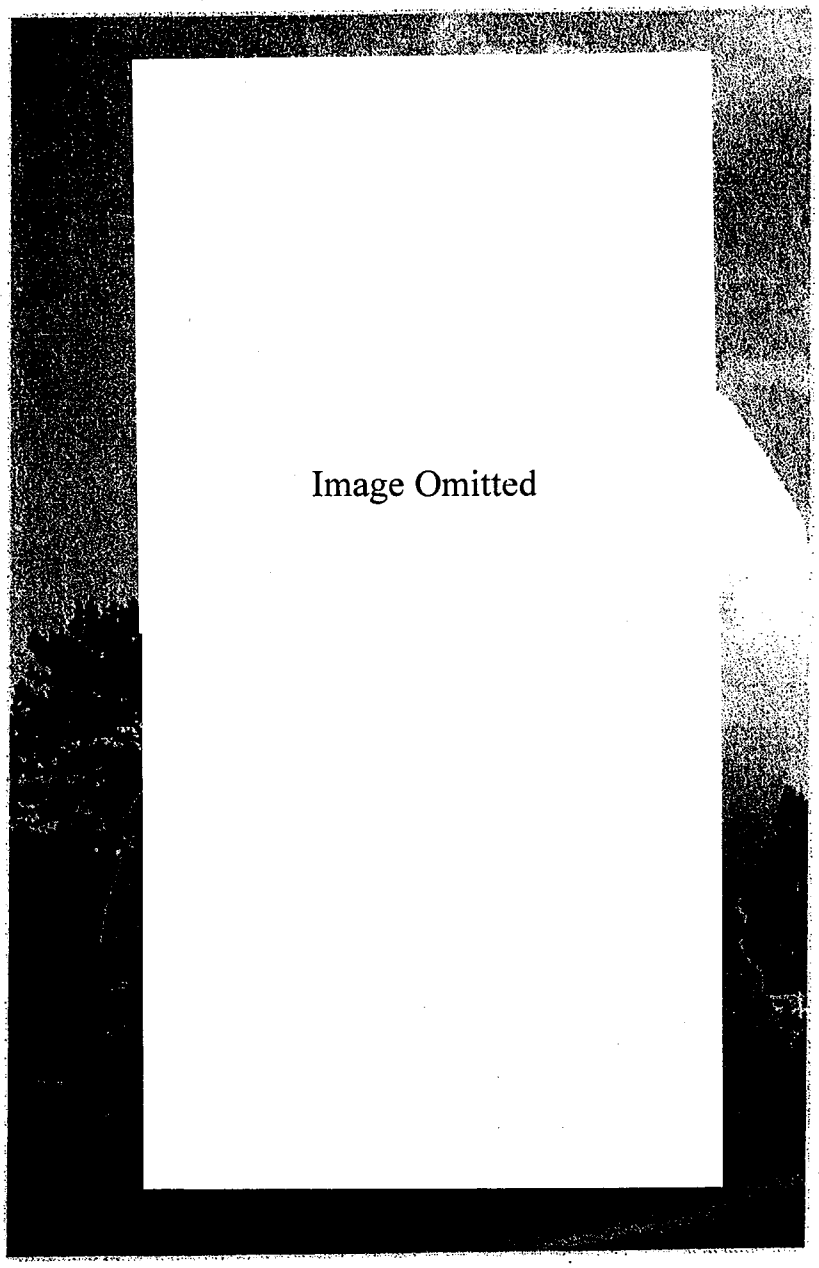
Police say research has shown that where sex offenders live is not a factor -- that most of them know their victims and that attacks occur in the victims' own homes.

Phipps said it is difficult, but she is telling her story in hopes that she can help to get the law changed.

"We need a tiered system so everyone is not treated the same, especially in a situation like mine," Phipps said. "The law does need to be changed."

Nicole Marshall [redacted]

Associate Images:



To comply with Oklahoma law, Nancy Phipps and her 16-year-old daughter lived at a Sapulpa motel surrounded by dozens of violent sex offenders. Phipps and her daughter have since moved to a shelter.

Rogers, Laura

From: [redacted]
Sent: Thursday, June 21, 2007 4:38 PM
To: GetSMART
Subject: OAG Docket No 121

The SONRA should include a requirement that only the States in conjunction with the Federal Government have the authority and jurisdiction to set laws and rules based on the SONRA. And that it would be unlawful for a local jurisdiction to set a law or rule using the SONRA or a State Sex Offender Registry as the grounds for setting such rule or law. Furthermore no jurisdiction other than the State or Federal Government may keep a sex offender registry of their own. This should include but not be limited to setting restrictions for the locations sex offenders can live, work, travel or go to school.

Reasoning: Many local jurisdictions are setting boundaries were sex offenders can live, travel, work or go to school. Study after study has shown that these types of restrictions are counter productive to Sex Offender Registries. In that they cause some sex offenders to go underground, or report a false address. One only needs to look to the state of Iowa who has a state wide sex offender boundary and even the police and prosecutors are working to get this law taken off the books. The other issue this causes is that it makes for a patch work of laws that are not the same from location to location. This in its self is what the SNORA is trying to correct. The other issue is that it drives convicted sex offenders from one jurisdiction to the next trying to find a jurisdiction that is "easier" on sex offenders. This is not the intent of the SONRA or sex offender registry laws. As stated the intent is not to be punitive. If because of the SONRA or sex offender registries these types of laws are permitted the higher courts are going to look at these types of ACTs as punitive and will at some point over turn the SNORA in full.

Rogers, Laura res. rest.

From: [redacted]
Sent: Friday, July 13, 2007 1:24 PM
To: GetSMART
Cc: christine_leonard@judiciary-dem.senate.gov
Subject: OAG Docket No 121

The SNORA should include in it that only States in conjunction with the Federal Government have the authority and right under the SNORA or any other sex offender laws to enact laws and rules governing were sex offender can and can not live including but not limited to how far they must live from a school or places were children gather.

The reasoning is that if as is the case now some local jurisdictions set up boundaries were sex offenders can not live, this causes a patch work of sex offender laws. It also causes sex offenders to move from one area to another putting undue burdens on the areas that do not have boundary's were they may live. This further causes many sex offenders to go "underground" as is proven by the state of Iowa; that has most trying to get the 2,000 ft law removed from the books. If the objective of the SNORA is for public protection from sex offenders, then the SNORA should insure that no laws or rules are put in place that will hinder the SNORA from compliance on the part of sex offenders. Furthermore no study to date has proven that limiting were sex offenders can live will protect any child or adult. It is worthy to note that studies have shown it is just that these types of laws do in fact make it more dangerous for children and adults in that many sex offenders go underground, or report false address were they are living. Law Enforcement with it limited resources is unable to check all addresses as reported or locate all of the sex offenders who go underground.

Rogers, Laura

juv/retro

From: Jim Rensel [redacted]
Sent: Wednesday, July 25, 2007 6:25 PM
To: GetSMART
Subject: Docket No. OAG 121 - COMMENTS ON PROPOSED GUIDELINES

Laura L. Rogers, Director, SMART Office
Office of Justice Programs
United States Department of Justice
810 7th Street NW., Washington, DC 20531

Dear Ms. Rogers:

I wish to express my deep concern over the **retroactivity provisions** of the Proposed Adam Walsh Guidelines, particularly they would affects **youthful sex offenders**. Your proposal to retroactively include juveniles age 14 and older in the national registry is ill-conceived and if allowed to proceed will cause irreparable harm to ten of thousands of children and young adults who pose absolutely no danger to the community.

In states like Arizona there are many hundreds of young people who have been caught up in Arizona's draconian sex offender laws who would not even have been prosecuted or be required to register in other states. We have hundreds upon hundreds of first time offenders who were forced to plead to unreasonable charges under threat of Arizona's mandatory sentencing law that could lock up two teens for life for having consensual sex. Forcing these kids to register under Adam Walsh is a travesty beyond words.

There are many other ridiculous aspects to both the Adam Walsh Act and your proposed guidelines, but harming young people is intolerable. I implore you to take out the retroactivity portions of the guidelines, at least for youthful offenders.

For your information, I am a registered Republican and a Christian and no one in my family is a registered Sex Offender. I am simply a member of the community that is appalled by the way youth have been unfairly persecuted under Arizona's poorly written sex offender laws.

Thank you.

Sincerely,

Jim

James P. Rensel
[redacted]